UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/45/756
7 December 1990

ORIGINAL: ENGLISH

Forty-fifth session
Agenda item 100

CRIME PREVENTION AND CRIMINAL JUSTICE

Report of the Third Committee

Rapporteur: Mr. Mario DE LEON (Philippines)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 21 September 1990, the General Assembly, on the recommendation of the General Committee, decided to include in its agenda the item entitled "Crime prevention and criminal justice" and to allocate it to the Third Committee.

2. The Third Committee considered the item jointly with items 94 and 95 at its 24th to 27th, 36th, 47th, 51st and 62nd meetings, on 30 and 31 October, 8, 16 and 23 November and 4 December 1990. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/45/SR.24-27, 36, 47, 51 and 62).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Economic and Social Council for the year 1990, chapter V, section C (A/45/3); 1/

(b) Report of the Secretary-General on implementation of the resolutions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/45/324);

1/ To be issued as Official Records of the General Assembly, Forty-fifth Session, Supplement No. 3 (A/45/3/Rev.1).

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(c) Report of the Secretary-General on the implementation of the conclusions of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/45/629);

(d) Report of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.144/28);

(e) Letter dated 5 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/203-S/21231);

(f) Letter dated 6 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/205-S/21236);

(g) Letter dated 9 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/207-S/21238);

(h) Letter dated 12 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/216-S/21248);

(i) Letter dated 18 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/222-S/21255);

(j) Letter dated 19 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/225-S/21256);

(k) Letter dated 24 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/254-S/21271);

(l) Letter dated 1 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/264-S/21283);

(m) Letter dated 2 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/265-S/21284);

(n) Letter dated 4 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/267-S/21287);

(o) Letter dated 7 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/269-S/21288);

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(p) Letter dated 8 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/270-S/21290);

(q) Letter dated 9 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/272-S/21293);

(r) Letter dated 11 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Albania to the United Nations addressed to the Secretary-General (A/45/275-E/1990/74);

(s) Letter dated 16 May 1990 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General (A/45/280 and Corr.1);

(t) Letter dated 9 July 1990 from the Permanent Representative of Albania to the United Nations addressed to the Secretary-General (A/45/338-E/1990/103);

(u) Letter dated 3 August 1990 from the Permanent Representative of Albania to the United Nations addressed to the Secretary-General (A/45/381-E/1990/118).

4. At the 24th meeting, on 30 October, the Chief of the Crime Prevention and Criminal Justice Branch of the United Nations Office at Vienna made an introductory statement (A/C.3/45/SR.24).

II. CONSIDERATION OF PROPOSALS

A. Draft resolutions and instruments contained in chapter I, section A, of the report of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders 2/

5. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders recommended to the General Assembly the adoption of 13 draft resolutions and instruments.

6. At the 45th meeting, on 16 November, the representative of the United States of America introduced amendments to the draft resolutions and instruments (A/C.3/45/L.46). The amendments read as follows:

"1. Draft No. 1 (International co-operation for crime prevention and criminal justice in the context of development):

In the annex, part B (pp. 13 and 14), delete paragraphs 22-24.

2/ A/CONF.144/28.

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2. Draft No. 5 (Basic principles for the treatment of prisoners):

In the annex, paragraph 5, line 3 (p. 36), after 'Universal Declaration of Human Rights' insert 'and, where the State concerned is a Party,'.

3. Draft No. 7 (United Nations Rules for the Protection of Juveniles Deprived of their Liberty):

In the annex, paragraph 13, line 4 (p. 53), after 'deprivation of liberty' delete the remainder of the paragraph.

4. Draft No. 10 (Model treaty on extradition):

In the annex, article 3 (a), line 2 (p. 74), after 'political nature' insert a full stop and the text in quotation marks in footnote 56."

7. The Committee had before it a statement of the programme budget implications (A/C.3/45/L.36) of the 13 draft resolutions and instruments submitted by the Secretary-General, in accordance with rule 153 of the rules of procedure of the General Assembly.

Draft resolution 1

8. At its 51st meeting, on 23 November, the representative of the United States of America made a statement, in the course of which she withdrew the amendment to draft resolution 1 entitled "International co-operation for crime prevention and criminal justice in the context of development".

9. At the same meeting, the Committee adopted the draft resolution without a vote, on the understanding that the whole question of the functioning and programme of work of the United Nations in crime prevention and criminal justice would be considered at the ministerial meeting to be held in 1991, which would consider the report of the intergovernmental working group pursuant to draft resolution 2 contained in chapter I, section A of the report of the Eighth United Nations Congress (see para. 51, draft resolution I).

10. After the adoption of the draft resolution, the representative of the United States of America made a statement (see A/C.3/45/SR.51).

Draft resolution 2

11. At its 51st meeting, on 23 November, the Committee adopted without a vote draft resolution 2, entitled "Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice", (see para. 51, draft resolution II).

12. After the adoption of the draft resolution, the representative of the United States of America made a statement (see A/C.3/45/SR.51).

Draft resolution 3

13. At its 51st meeting, on 23 November, the Committee adopted without a vote draft resolution 3, entitled "Computerization of criminal justice", (see para. 51, draft resolution III).

Draft resolution 4

14. At its 51st meeting, on 23 November, the Committee adopted without a vote draft resolution 4, entitled "United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)" (see para. 51, draft resolution IV).

15. After the adoption of the draft resolution, the representative of the United States of America made a statement (see A/C.3/45/SR.51).

Draft resolution 5

16. At its 51st meeting, on 23 November, the Committee agreed to incorporate the amendment proposed by the United States of America to paragraph 5 of the annex to draft resolution 5 entitled "Basic principles for the treatment of prisoners".

17. At the same meeting, the Committee adopted the draft resolution, as amended, without a vote (see para. 51, draft resolution V).

Draft resolution 6

18. At its 51st meeting, on 23 November, the Committee adopted without a vote draft resolution 6, entitled "United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)" (see para. 51, draft resolution VI).

Draft resolution 7

19. At its 51st meeting, on 23 November, the Committee accepted the amendment proposed by the United States of America to paragraph 13 of the annex to draft resolution 7 entitled "United Nations Rules for the Protection of Juveniles Deprived of their Liberty".

20. At the same meeting, the Committee adopted draft resolution 7, as amended, without a vote (see para. 51, draft resolution VII).

21. After the adoption of the draft resolution, the representative of the United States of America made a statement (see A/C.3/45/SR.51).

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Draft resolution 8

22. At its 51st meeting, on 23 November, the Committee adopted without a vote draft resolution 8, entitled "Domestic violence" (see para. 51, draft resolution VIII).

23. After the adoption of the draft resolution, the representative of the United States of America made a statement (see A/C.3/45/SR.51).

Draft resolution 9

24. At its 51st meeting, on 23 November, the Committee adopted without a vote draft resolution 9, entitled "Instrumental use of children in criminal activities" (see para. 51, draft resolution IX).

Draft resolution 10

25. At its 51st meeting, on 23 November, the representative of the United States of America made a statement, in the course of which she withdrew the amendment to draft resolution 10 entitled "Model treaty on Extradition".

26. At the same meeting, the Committee adopted the draft resolution without a vote (see para. 51, draft resolution X).

27. After the adoption of the draft resolution, the representatives of the Union of Soviet Socialist Republics, the United States of America and India made statements (see A/C.3/45/SR.51).

Draft resolution 11

28. At its 51st meeting, on 23 November, the Committee adopted without a vote draft resolution 11, entitled "Model Treaty on Mutual Assistance in Criminal Matters" (see para. 51, draft resolution XI).

29. After the adoption of the draft resolution, the representative of India made a statement (see A/C.3/45/SR.51).

Draft resolution 12

30. At its 51st meeting, on 23 November, the Committee adopted without a vote draft resolution 12, entitled "Model Treaty on the Transfer of Proceedings in Criminal Matters" (see para. 51, draft resolution XII).

31. After the adoption of the draft resolution, the representative of India made a statement (see A/C.3/45/SR.51).

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Draft resolution 13

32. At its 51st meeting, on 23 November, the Committee adopted without a vote draft resolution 13, entitled "Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released" (see para. 51, draft resolution XIII).

33. After the adoption of the draft resolution, the representative of India made a statement (see A/C.3/45/SR.51).

B. Draft resolution A/C.3/45/L.23

34. At the 36th meeting, on 8 November, the representative of Italy introduced a draft resolution (A/C.3/45/L.23) entitled "Expression of appreciation to the Government and people of Cuba on the occasion of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders".

35. At its 51st meeting, on 23 November, the Committee adopted draft resolution A/C.3/45/L.23 without a vote (see para. 51, draft resolution XIV).

36. Before the adoption of the draft resolution, the representative of Cuba made a statement (see A/C.3/45/SR.51).

37. The representative of the United States of America also made a statement, in which she stated that her delegation would not participate in the vote on the draft resolution (see A/C.3/45/SR.51).

C. Draft resolution A/C.3/45/L.29/Rev.1

38. At the 36th meeting, on 8 November, the representative of Cuba introduced a draft resolution (A/C.3/45/L.29), entitled "Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders", also sponsored by Italy. The draft read as follows:

"Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

"The General Assembly,

"Deeply concerned about the steady rise in crime in many parts of the world, particularly in its dangerous new forms and transnational dimensions,

"Conscious of the negative effects of crime on the quest for sustained development, a secure environment and a better quality of life, "*Recognizing* the importance to all countries of more effective crime prevention and criminal justice in furthering socio-economic development, political stability and a propitious climate for national growth and world peace,

"*Recalling* its resolution 40/32 of 29 November 1985, in which it approved the Milan Plan of Action 1/ as a useful and effective means of strengthening international co-operation in the field of crime prevention and criminal justice and invited Governments to be guided by it in the formulation of appropriate legislation and policy directives and to make continuous efforts to implement the principles contained in the Caracas Declaration 2/ and other relevant resolutions and recommendations, in accordance with the economic, social, cultural and political circumstances of each country,

"*Also recalling* its resolution 44/72 of 8 December 1989, in which it stressed the importance of the United Nations crime prevention and criminal justice programme and the necessity of strengthening it in order to make it more responsive to the needs and expectations of Member States, whose stability and social peace, as well as law enforcement and judicial structures, might be undermined by the growing level and impact of criminality, and requested the Secretary-General to ensure that the level of human and financial resources of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs of the Secretariat is sufficient to carry out its multiple tasks mandated by the United Nations policy-making bodies, including the promotion of collaborative action by Governments on problems of mutual concern, evaluation research, the collection and dissemination of information, the preparation of reports and studies and technical co-operation activities, and to ensure that the specialized nature of the programme is fully reflected in its management and staffing,

"*Recalling further* its resolution 42/59 of 30 November 1987, in which it invited the Committee on Crime Prevention and Control to accord priority to preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and to ensure adequate follow-up to the review of the functioning and programme of work of the United Nations in the field of crime prevention and criminal justice undertaken by the Economic and Social Council and its resolution 43/99 of 8 December 1988, in which it stressed the necessity for Member States to continue to make concerted and systematic efforts to strengthen international co-operation in crime prevention and criminal justice,

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"1/ See *Seventh United Nations Conference on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

"2/ Resolution 35/171, annex.

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"*Emphasizing* the responsibility assumed by the United Nations in crime prevention under General Assembly resolution 415 (V) of 1 December 1950, which was affirmed in Economic and Social Council resolutions 731 F (XXVIII) of 30 July 1959 and 830 D (XXXII) of 2 August 1961, and in the promotion and strengthening of international co-operation in the field in accordance with Assembly resolutions 3021 (XXVII) of 18 December 1972, 32/59 and 32/60 of 8 December 1977, 35/171 of 15 December 1980, 36/21 of 9 November 1981 and 40/32,

"*Recalling* Economic and Social Council resolutions 1986/10 and 1986/11 of 21 May 1986, 1987/49 and 1987/53 of 28 May 1987, 1988/44 of 27 May 1988 and 1989/68 and 1989/69 of 24 May 1989,

"*Also recalling*, in particular, Economic and Social Council resolution 1990/27 of 24 May 1990, which invited the General Assembly, at its forty-fifth session, to take appropriate measures to ensure the timely implementation and proper follow-up of the recommendations of the Eighth Congress,

"*Acknowledging* that the United Nations congresses, as major intergovernmental forums, have influenced national policies and practices by facilitating the exchange of views and experiences, mobilizing public opinion and recommending policy options at the national, regional and international levels, thus making a significant contribution to progress and the promotion of international co-operation in this field,

"*Mindful* of the main objectives of the United Nations in the field of crime prevention and criminal justice, which include the promotion of a more effective administration of justice, the strengthening of international co-operation in the fight against international crime, the observance of human rights and the pursuance of the highest standards of fairness, efficiency, humanity and professional conduct,

"*Bearing in mind* the theme of the Eighth Congress "International co-operation in crime prevention and criminal justice for the twenty-first century", and the importance of preserving peace, freedom and justice as essential conditions for development and international co-operation,

"*Welcoming* the fact that the Congress, in pursuance of this theme, paid particular attention to the question of crime prevention and criminal justice in the context of development and the realities and perspectives of international co-operation in this field; underlined the need for granting this question a higher priority at the United Nations system level; and recommended major instruments to facilitate inter-State co-operation against crime, giving particular attention to the role of criminal law in environmental protection, the linkages between illicit drug trafficking, organized crime and terrorist criminal activities, the efficiency and effectiveness of criminal justice, the computerization of criminal justice and the non-institutional treatment of offenders, the prevention of juvenile delinquency, and identifying other priority areas for practical action in accordance with the requests of the General Assembly,

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"*Recognizing* that the work-load of the United Nations Secretariat has increased rapidly in recent years,

"*Aware* that the prevention of crime and criminal justice must be considered not only in the context of public systems, social and cultural values and social evolution, but also in the context of consistent economic development,

"*Alarmed* by the growing threat of organized crime whose destabilizing and corrupting influence on basic economic and political institutions poses a challenge that demands more effective international co-operation,

"*Considering* that the formulation and implementation of rules and guidelines in the field of crime prevention and criminal justice provide a basis for the introduction of improvements in criminal justice at the national and regional levels and facilitate the establishment of related international co-operation mechanisms,

"*Reaffirming* its determination to improve regional, interregional and international co-operation to foster further progress in this area, including full and effective implementation of the recommendations of the Eighth Congress,

"*Having considered* the report of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 3/ the report of the Secretary-General on the implementation of the resolutions and recommendations of the Seventh Congress 4/ and the report of the Secretary-General 5/ on the implementation of the conclusions of the Eighth Congress, submitted in pursuance of resolution 44/72,

"1. *Expresses its satisfaction* with the successful results achieved by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and its thorough preparation, overviewed by the Committee on Crime Prevention and Control as the preparatory body for the Congress, which contributed to its productive outcome, and by the regional and interregional preparatory meetings convened in co-operation with the regional commissions, interregional and regional crime prevention institutes and interested Governments;

"2. *Takes note* of the report of the Eighth Congress, as well as the Secretary-General's reports on the implementation of the recommendations of the Seventh Congress and of his report on the conclusions of the Eighth Congress;

"3/ A/CONF.144/28.

"4/ A/45/324.

"5/ A/45/629.

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"3. Endorses the resolutions adopted by the Eighth Congress and invites Governments to be guided by them in the formulation of appropriate legislation and policy directives, making continuous efforts to implement the principles contained therein and in the instruments approved by the previous congresses and other relevant resolutions and recommendations in accordance with the economic, social, cultural and political circumstances of each country;

"4. Invites Member States to monitor systematically the steps being taken to ensure co-ordination of efforts in the planning and execution of effective and humane measures to reduce the social costs of crime and its negative effects on the development process, as well as to continue to explore new avenues for international co-operation in this field;

"5. Also invites the Committee on Crime Prevention and Control at its twelfth session to examine the implications of the resolutions and recommendations of the Eighth Congress for the programmes of the United Nations system and to make specific recommendations on the implementation thereof in its report to the Economic and Social Council at its first regular session of 1992;

"6. Requests the Economic and Social Council to examine, at its first regular session of 1992, the report of the Committee on Crime Prevention and Control on the resolutions and recommendations of the Eighth Congress for further implementation in order to provide, within the United Nations system, overall policy guidance in crime prevention and criminal justice, and to undertake periodically the review, monitoring and appraisal of the above-mentioned resolutions and recommendations;

7. Emphasizes the urgent need to be responsive to the calls of the Eighth Congress for strengthening the operational aspects of the United Nations programme of work in crime prevention and criminal justice, with a view to assisting interested countries in developing self-reliant and adequate law enforcement and judicial structures;

"8. Urges all entities of the United Nations system, including the regional commissions and the regional and interregional institutes on crime prevention and the treatment of offenders and the relevant non-governmental organizations having consultative status with the Economic and Social Council to become actively involved in the implementation of the resolutions and recommendations of the Eighth Congress;

"9. Also urges the Department of Technical Co-operation for Development of the Secretariat, the United Nations Development Programme and other pertinent organizations to give full support to projects of technical assistance, in particular to developing countries, in the field of crime prevention and criminal justice and to encourage technical co-operation among developing countries;

"10. Requests the Secretary-General to make every effort to translate into action, as appropriate, the relevant recommendations and policies stemming from the Eighth Congress;

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"11. Also requests the Secretary-General to take the necessary steps to provide the additional resources required to ensure that the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs of the Secretariat is able to discharge its responsibilities in accordance with its increasing mandates and new tasks recommended by the Eighth United Nations Congress;

"12. Further requests the Secretary-General to include, in the proposed programme budget for the biennium 1992-1993, programme and resources proposals for long-term resolutions of the problems posed by the implementation of existing mandates and to provide the necessary human and financial resources for the enlargement of advisory services and the expansion of training activities, particularly under section 24 of the regular budget, concerning technical co-operation;

"13. Requests the Secretary-General to circulate the report of the Eighth Congress to Member States and intergovernmental and non-governmental organizations in order to ensure that it is disseminated as widely as possible, and to strengthen public information activities in this field;

"14. Also requests the Secretary-General to submit to the General Assembly, at its forty-sixth session, a report on the measures taken to implement the present resolution;

"15. Decides to include in the provisional agenda for the forty-sixth session the item entitled 'Crime prevention and criminal justice'."

39. The Committee had before it a statement of the programme budget implications (A/C.3/45/L.37) of the draft resolution submitted by the Secretary-General, in accordance with rule 153 of the rules of procedure of the General Assembly.

40. At its 51st meeting, on 23 November, the representative of Cuba, also on behalf of Italy, introduced a revised draft resolution (A/C.3/45/L.29/Rev.1) entitled "Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders".

41. The Committee had before it a statement of the programme budget implications (A/C.3/45/L.37/Add.1) of the revised draft resolution submitted by the Secretary-General, in accordance with rule 153 of the rules of procedure of the General Assembly.

42. At the same meeting, the Committee adopted revised draft resolution A/C.3/45/L.29/Rev.1 without a vote (see para. 51, draft resolution XV).

43. After the adoption of the draft resolution, the representative of the United States of America made a statement (see A/C.3/45/SR.51).

D. Draft resolution A/C.3/45/L.30

44. At the 36th meeting, on 8 November, the representative of Yugoslavia introduced a draft resolution (A/C.3/45/L.30) entitled "Criminal justice education", sponsored by Australia, the Byelorussian Soviet Socialist Republic, Canada, China, Cuba, Hungary, Indonesia, Italy, Jordan, Nigeria, the Sudan, Uganda, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, the United Republic of Tanzania and Yugoslavia. Subsequently, Barbados joined in sponsoring the draft resolution.

45. At its 51st meeting, on 23 November, the Committee adopted draft resolution A/C.3/45/L.30 without a vote (see para. 51, draft resolution XVI).

46. After the adoption of the draft resolution, the representative of the United Kingdom of Great Britain and Northern Ireland made a statement (see A/C.3/45/SR.51).

E. Draft resolution A/C.3/45/L.33

47. At the 36th meeting, on 8 November, the representative of the Union of Soviet Socialist Republics introduced a draft resolution (A/C.3/45/L.33), entitled "International co-operation in combating organized crime", sponsored by Australia, Austria, Bulgaria, the Byelorussian Soviet Socialist Republic, Canada, Colombia, Costa Rica, Czechoslovakia, France, Germany, Greece, Hungary, Italy, the Netherlands, Norway, Poland, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, the United States of America and Yugoslavia. Subsequently, Romania and Turkey joined in sponsoring the draft resolution.

48. At its 51st meeting, on 23 November, the Committee adopted draft resolution A/C.3/45/L.33 without a vote (see para. 51, draft resolution XVII).

F. Draft decision A/C.3/45/L.102

49. At its 62nd meeting, on 4 December, the representative of Sweden introduced a draft decision (A/C.3/45/L.102) entitled "Crime prevention and criminal justice".

50. At the same meeting, the Committee adopted the draft decision without a vote (see para. 51, draft decision).

III. RECOMMENDATIONS OF THE THIRD COMMITTEE

51. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

International co-operation for crime prevention and criminal justice in the context of development

The General Assembly,

Reaffirming the purposes and principles of the United Nations and the commitment of all States to respect the obligations assumed by them, in accordance with the Charter of the United Nations,

Convinced that crime prevention and criminal justice in the context of development should be oriented towards the observance of the principles contained in the Caracas Declaration, [3] the Milan Plan of Action, [4] the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order [5] and other relevant resolutions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling its resolution 43/99 of 8 December 1988, in which it stressed the need for Member States to continue to make concerted and systematic efforts to strengthen international co-operation in crime prevention and criminal justice, as identified in the Milan Plan of Action and to facilitate the adoption by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders of viable and constructive action-oriented strategies against crime,

Recalling also its resolution 44/72 of 8 December 1989,

Recalling further Economic and Social Council resolution 1989/68 of 24 May 1989, in which the Council reaffirmed its conviction of the importance of the programme of the United Nations in the field of crime prevention and criminal justice and the necessity of strengthening it in order to make it fully responsive to the needs and expectations of Member States,

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[3] General Assembly resolution 35/171, annex.

[4] See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

[5] Ibid., sect. B.

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Adopts the recommendations on international co-operation for crime prevention and criminal justice in the context of development, as contained in the annex to the present resolution.

ANNEX

Recommendations on international co-operation for crime prevention and criminal justice in the context of development

A. *Crime prevention and criminal justice in the context of development*

1. Governments should reaffirm their commitment to respect the existing international treaties and their adherence to principles expressed in the Charter of the United Nations and in other relevant international instruments. Crime can also be prevented by ensuring that those principles are not sacrificed.

2. Member States should intensify the struggle against international crime by respecting and promoting the rule of law and legality in international relations and, for that purpose, they should complete and further develop international criminal law, fully implement the obligations following from international treaties and instruments in this field (*pacta sunt servanda*), and examine their national legislation in order to ensure that it meets the needs of international criminal law.

3. Governments should accord priority attention to the promulgation and implementation of appropriate laws and regulations to control and combat transnational crime and illegal international transactions, especially by the provision of proper collaborative schemes and trained personnel. Also, national laws should be reviewed in order to ensure a more effective and adequate response to the new forms of criminal activity, not only through the application of criminal penalties, but also through civil or administrative measures.

4. The national, regional and international aspects of growing pollution and the exploitation and destruction of the environment should be recognized and controlled as a matter of urgency, in view of its increasing and alarming devastation, deriving from various sources. Besides measures of administrative law and liability under civil law, the role of criminal law as an instrument that can help to achieve such control should be kept under review. The desirability of elaborating guiding principles for the prevention of crimes against the environment should be considered.

5. In view of the fact that advanced technology and specialized technical knowledge are employed in criminal activities pursued in international trade and commerce, including computer fraud, by the misuse of banking facilities and the manipulation of tax laws and customs regulations, law enforcement and

criminal justice officials should be properly trained and provided with adequate legal and technical means to be able to detect and investigate such offences. The co-ordination and co-operation of other relevant agencies at the national level should be ensured and their capacities further improved. The development and strengthening of direct arrangements of international co-operation between the various agencies of national criminal justice systems should also be pursued.

6. Since even legitimate enterprises, organizations and associations may sometimes be involved in transnational criminal activities affecting national economies, Governments should adopt measures for the control of such activities. They should also collect information from various sources so as to have a solid base for the detection and punishment of enterprises, organizations and associations, their officials, or both, if they are involved in such criminal activities, with a view also to preventing similar conduct in the future.

7. Note should be taken of the fact that many countries lack adequate laws to deal with the emerging manifestations of transnational crime, and that the adoption and implementation of appropriate instruments and measures to prevent this type of criminality are urgently needed. In this regard, the exchange of information on existing laws and regulations should be encouraged in order to facilitate the dissemination and adoption of appropriate measures.

8. Because the corrupt activities of public officials can destroy the potential effectiveness of all types of governmental programmes, hinder development, and victimize individuals and groups, it is of crucial importance that all nations should (a) review the adequacy of their criminal laws, including procedural legislation, in order to respond to all forms of corruption and related actions designed to assist or to facilitate corrupt activities, and should have recourse to sanctions that will ensure an adequate deterrence; (b) devise administrative and regulatory mechanisms for the prevention of corrupt practices or the abuse of power; (c) adopt procedures for the detection, investigation and conviction of corrupt officials; (d) create legal provisions for the forfeiture of funds and property from corrupt practices; and (e) take appropriate measures against enterprises involved in corruption. The Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs should co-ordinate the elaboration of materials to assist countries in these efforts, including the development of a manual to combat corruption, and should provide specialized training to judges and prosecutors that would qualify them to deal with the technical aspects of corruption, as well as with the experiences derived from specialized courts handling such matters.

9. Noting the alarming threat posed by illicit trafficking in narcotic drugs and psychotropic substances, which is among the worst crimes that humanity is facing, and the action carried out by United Nations drug control units and bodies in this field, and concerned that, despite all the efforts undertaken at the national, regional and international levels, this phenomenon persists unabated, it is important that efforts to combat this type of criminality

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be given a central place in all crime prevention and criminal justice plans and programmes. The work of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs in this area should be strengthened. Special assistance should be extended to developing countries for the implementation of drug abuse control programmes and the elaboration of collaborative prevention and control strategies.

10. The process of developing comprehensive model codes, especially at the regional and subregional levels, to combat crimes of transnational and international dimensions, should be encouraged. Also, efforts should be made to harmonize national criminal laws, so as to make them fully responsive to the realities and ramifications of such crimes. Practical arrangements, such as extradition, mutual assistance in criminal justice and the sharing and exchange of expertise and information, should be pursued. Adequate attention should be given to effective enforcement mechanisms in order to minimize the consequences of transborder crimes, including their effect on countries not directly involved.

11. Appropriate educational policies should be developed for making the populations of Member States more sensitive to the problem through formal educational systems and general public information programmes, with a view to promoting awareness of the ways and means by which criminal victimization can be avoided, as well as acquainting the public at large with the objectives and processes of the criminal justice system.

12. In recognition of the need for specific preventive measures related to such types of criminality as burglary, violent theft and street crime, an inventory of preventive measures should be prepared by the United Nations on the basis of an in-depth assessment and evaluation of their effectiveness in various cultural, social, economic and political contexts.

13. With respect to the victims of crime and abuse of power, a guide containing an inventory of comprehensive measures for education on the prevention of victimization, and on the protection of, and assistance and compensation to, victims should be prepared. This guide should be applied in accordance with the legal, socio-cultural and economic circumstances of each nation, taking into account the important role of non-governmental organizations in this sphere.

14. In view of its crucial function in crime prevention, the criminal justice system should be developed on the basis of the progressive rationalization and humanization of criminal laws and procedures, sentencing policies and dispositional alternatives, within the overall framework of social justice and societal aspirations.

15. A systematic approach to crime prevention planning should be pursued to provide for the incorporation of crime prevention policies into national development planning, starting from an overall reassessment of substantive criminal and procedural laws whenever appropriate. This approach would include the introduction of the processes of decriminalization, depenalization

and diversion, as well as reforms of procedures that would ensure the support of members of the public and review of existing policies with a view to assessing their impact. It would also include appropriate links to be established between the criminal justice system and other development sectors, including education, employment, health, social policy and other related fields.

16. The trial process should be consonant with the cultural realities and social values of society, in order to make it understood and to permit it to operate effectively within the community it serves. Observance of human rights, equality, fairness and consistency should be ensured at all stages of the process.

B. International, scientific and technical co-operation

17. In order to increase the effectiveness of international co-operation in crime prevention and criminal justice, concerted efforts should be made towards (a) the ratification and implementation of existing international instruments; (b) the development of bilateral and multilateral instruments; and (c) the preparation and elaboration of model instruments and standards for use at the national, bilateral, multilateral, subregional, regional and interregional levels.

18. The formulation of international instruments, standards and norms should include the following specific areas of concern: (a) judicial assistance treaties, in particular between common law and civil law countries, dealing with the means for obtaining evidence conforming to the requirements of the requesting State; (b) development of standardized requests for extradition and mutual assistance; (c) development of the means of providing assistance to victims of crime and abuse of power, with emphasis on the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 6/ and of providing adequate protection for witnesses; (d) further consideration of issues of transnational jurisdiction in order to assist in the process of responding to requests for extradition and mutual assistance and in the implementation of international instruments; and (e) elaboration of standards for international assistance in respect of bank secrecy, facilitating the seizure and confiscation of proceeds in bank accounts derived from criminal acts. In particular, banks and other financial institutions should be urged to standardize their reporting requirements and documents so that these can be used more rapidly and effectively as evidence. More effective international standards to inhibit the laundering of money and investment connected with criminal activities, such as narcotics trafficking and terrorism, should also be developed.

6/ General Assembly resolution 40/34, annex.

19. Member States, intergovernmental and non-governmental organizations and international, national and private funding agencies should assist the United Nations in the establishment and operation of a global crime prevention and criminal justice information network. Member States are urged to contribute to this endeavour by financing equipment and expertise. Consideration should also be given to what categories of criminal justice data can be provided and exchanged on a regular basis.

20. In accordance with the numerous decisions and resolutions of relevant organs of the United Nations, including the quinquennial United Nations congresses on the prevention of crime and the treatment of offenders, measures should be taken to strengthen programmes of international technical and scientific co-operation in the field of crime prevention and criminal justice on a bilateral and multilateral basis, as substantive components of broader development programmes, taking into account the special needs of developing countries and, in particular, the worsening socio-economic situation in many of them, which contributes to the increase of structural inequality and criminality.

21. In order to formulate and develop proper regional and interregional strategies of international, technical and scientific co-operation in combating crime and improving the effectiveness of preventive and criminal justice activities, the programmes of technical and scientific co-operation should be directed especially towards (a) reinforcement of the technical capacities of the criminal justice agencies; (b) an upgrading of the human and technical resources in all sectors of the criminal justice system in order to stimulate technical assistance, model and demonstration projects, research activities and training programmes, in close co-operation with the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders and competent non-governmental organizations; (c) the further development and improvement, at the national, regional, interregional and international levels, of information bases for the collection, analysis and dissemination of data on crime trends, innovative ways and methods of crime prevention and control, the operation of criminal justice agencies, in order to provide an appropriate basis for policy-formulation and programme implementation; (d) the promotion, through educational programmes and training activities, of the implementation of United Nations norms, guidelines and standards in crime prevention and criminal justice; and (e) the elaboration and implementation of joint strategies and collaborative arrangements to deal with crime problems of mutual concern.

22. The Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, as the focal point of United Nations activities in this field, the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders, the co-operating entities like the Arab Security Studies and Training Centre, the interregional advisory services in crime prevention and criminal justice, and other relevant United Nations bodies, as well as intergovernmental and non-governmental organizations enjoying consultative status with the Economic

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and Social Council, should be strengthened so as to increase the scope of their operations, improve their co-ordination and diversify forms and methods of technical and scientific co-operation.

23. The role of the Committee on Crime Prevention and Control as the principal body dealing with crime prevention and criminal justice matters entrusted, inter alia, with the preparations for the United Nations congresses on the prevention of crime and the treatment of offenders, should be further enhanced so as to enable it to fulfil its important functions.

24. The capacity of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, as the only professional and specialized entity within the United Nations system with overall responsibility for its crime prevention and criminal justice programme, should be strengthened in terms of both human and financial resources. Prompt implementation of the General Assembly and Economic and Social Council resolutions related thereto is urgently needed. In particular, priority attention should be given to the implementation of paragraphs 4 and 5 of General Assembly resolution 42/59 of 30 November 1989, in which the Assembly approved the recommendations on the review of the functioning and programme of work of the United Nations in the field of crime prevention and criminal justice [7] contained in Economic and Social Council resolutions 1986/11 and 1987/53, and requested the Secretary-General, inter alia, to take measures to ensure that the programme of work is supported by adequate resources; and paragraph 3 (a) of Economic and Social Council resolution 1987/53, in which the Council requested the Secretary-General to develop the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs as a specialized body and facilitating agent in the field of crime prevention and criminal justice. Attention should also be given to other relevant resolutions of the General Assembly and the Economic and Social Council, as well as to the recommendations of the regional preparatory meetings for the Eighth Congress and of the Committee on Crime Prevention and Control.

25. The United Nations regional and interregional institutes for crime prevention and the treatment of offenders should further develop their research, training and technical assistance capacities, and widen their collaborative networks through more extensive reliance on non-governmental organizations and national research and educational institutions, in order to meet the growing requests from developing countries for technical and scientific assistance. The Governments concerned, relevant regional bodies and organizations and United Nations entities should actively assist the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders, and particularly the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders, in consolidating its status and further promoting its activities.

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[7] E/1987/43.

26. Governments should be invited to fund regional advisory services in their regions, directly or through the United Nations Development Programme, so as to develop further and complement existing structures and possibilities in this field. The regional commissions should be encouraged to do likewise and should be supported in their efforts to that end.

27. Special attention should be paid to strengthening the collaborative ties in the field of crime prevention and criminal justice between the Centre for Social Development and Humanitarian Affairs, and the Department of Technical Co-operation for Development of the United Nations Secretariat, the United Nations Development Programme, the World Bank and other relevant entities, with a view to ensuring adequate resources for technical co-operation activities in crime prevention and criminal justice. Interested Governments should give priority to the inclusion of crime prevention and criminal justice projects in the country and regional programmes proposed for the support of the United Nations Development Programme.

28. In order to fully implement the mandates emerging from the crime prevention and criminal justice programme and to provide additional technical and scientific expertise and resources for matters of international co-operation in this field, broader involvement of, and assistance by, non-governmental organizations are required.

29. Governments and other funding agencies should contribute to the United Nations Trust Fund for Social Defence in order to enable the United Nations to implement, in an adequate and effective manner, programmes of technical and scientific co-operation in this field.

DRAFT RESOLUTION II

Review of the functioning and programme of work of the United Nations in crime prevention and criminal justice

The General Assembly,

Aware of the responsibility assumed by the United Nations in the field of crime prevention and criminal justice in pursuance of Economic and Social Council resolution 155 C (VII) of 13 August 1948 and General Assembly resolution 415 (V) of 1 December 1950,

Recalling its resolutions 40/32 of 29 November 1985, 41/107 of 4 December 1986, 42/59 of 30 November 1987, 43/99 of 8 December 1988 and 44/72 of 8 December 1989, and Economic and Social Council resolutions 1986/11 of 21 May 1986, 1987/53 of 28 May 1987, 1988/44 of 27 May 1988, 1989/68 of 24 May 1989 and 1990/27 of 24 May 1990, Recognizing the increasingly transnational character and dimensions of crime and also recognizing that the new, organized and sophisticated forms of crime call for concerted international action,

Alarmed by the high human and material costs of crime and aware that its consequences involve a substantial drain on the economies of Member States, and loss and damage to the victims of crime,

Convinced of the urgent need for more effective and responsive international mechanisms to assist countries and facilitate joint strategies in areas of mutual concern,

Noting that the Committee on Crime Prevention and Control, in resolution 10/1 of 31 August 1988, [8] requested its Chairman to appoint a sub-committee to provide an overview of the magnitude of the problem of crime in its economic, criminological, social and juridical aspects, to assess the most efficient means of stimulating practical international action in support of Member States and, in particular, the role of the United Nations in that regard, and to make recommendations to the Committee, at its eleventh session, concerning the most effective mechanisms for the implementation of the conclusions of the overview, and noting that a report on these matters was prepared by a sub-committee appointed by the Chairman, which was considered, reviewed, revised and approved by the Committee at its eleventh session,

Noting also that the General Assembly, in its resolution 44/72 of 8 December 1989, invited the Committee on Crime Prevention and Control, at its eleventh session, to give priority attention to the conclusions and recommendations of its sub-committee and to consider their appropriate follow-up by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Noting with appreciation the report of the Committee on Crime Prevention and Control entitled "The need for the creation of an effective international crime and justice programme" [9] and its endorsement by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as well as the deliberations of the Congress thereon,

1. Decides to establish an intergovernmental working group, which, on the basis of the report of the Committee on Crime Prevention and Control entitled "The need for the creation of an effective international crime and justice programme", would produce a report elaborating proposals for an effective crime prevention and criminal justice programme and suggesting how that programme could most appropriately be implemented, and, accordingly,

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[8] Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31), chap. I, sect. C.

[9] E/1990/31/Add.1

requests the President of the General Assembly, in consultation with the chairmen of the regional groups, to appoint no more than thirty Member States on the basis of the principle of equitable geographical distribution to constitute the membership of the working group;

2. Invites Member States, in consultation with the Secretary-General and the Chairman of the Committee on Crime Prevention and Control, to convene an early ministerial meeting:

(a) To consider the report of the intergovernmental working group in order to decide what the future crime prevention and criminal justice programme should be;

(b) To consider, in this context, the possible need for a convention or other international instrument to develop the content, structure and dynamics of that programme, including mechanisms for setting priorities, securing the implementation of the programme and monitoring the results achieved;

3. Requests the Secretary-General, in preparation for the ministerial meeting, to assess the possible implications of the programme proposed by the intergovernmental working group for the resources and organization of the Secretariat and to report thereon to the ministerial meeting and to the Committee on Crime Prevention and Control;

4. Also requests the Secretary-General to take all practical measures to ensure rapid implementation of General Assembly resolutions 42/59 and 44/72 and Economic and Social Council resolutions 1986/11, 1987/53, 1989/68 of 24 May 1989 and 1990/27 of 24 May 1990, in so far as they relate to the strengthening and upgrading of the status of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs, taking into account the demands on the Branch that will be created by the preparations for the above-mentioned meetings and by the current and expected programme, including the conclusions and recommendations of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

5. Invites Member States to provide active support and assistance for the development of an effective international crime prevention and criminal justice programme and of viable mechanisms for implementing it;

6. Decides that the conclusions and recommendations of the ministerial meeting should be brought to the attention of the General Assembly, under the agenda item entitled "Crime prevention and criminal justice", for appropriate action.

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DRAFT RESOLUTION III

Computerization of criminal justice

The General Assembly,

Recalling its resolution 44/72 of 8 December 1989, in which the question of computerization of criminal justice was addressed,

Recalling also resolution 9 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders 10/ on the development of crime and criminal justice information and statistical systems,

Recalling Economic and Social Council resolution 1986/12 of 21 May 1986,

Bearing in mind the recommendations on computerization of criminal justice administration proposed by the interregional preparatory meeting for the eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures, which emanated from the European Seminar on the Computerization of Criminal Justice Information: Realities, Methods, Perspectives and Effects, held at Popowo, Poland, from 18 to 22 May 1987,

Aware that crime poses a serious problem to the personal security of individuals and to the enjoyment of their human rights, thereby adversely affecting the quality of life and harming the development process,

Aware also that inefficiencies, inequalities or failures in the administration of criminal justice may themselves infringe on the rights and personal security of individuals,

Recognizing that the computerization of criminal justice administration is an important mechanism for assistance in the efficient and humane management of criminal justice as long as the protection of privacy, the respect for human rights and fundamental freedoms are taken into account,

Noting with appreciation the principles on the storage, use and protection of data enunciated in the final report of the Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities on "Guidelines for the Regulation of Computerized Personal Data Files", 11/

10/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

11/ E/CN.4/Sub.2/1988/22.

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Recognizing that computerization of criminal justice is an important mechanism for the production of statistical information that would benefit national Governments and the international community by providing data on crime trends and the operation of criminal justice systems,

Recognizing also that the growth of crime nationally and internationally calls for enhanced international co-operation,

Noting that the workshop and seminar on the computerization of criminal justice administration held at the Eighth Congress offered a suitable opportunity to exchange experience and establish viable policy options on this issue,

Conscious that promotion of the computerization of criminal justice administration among Member States requires the enhancement of technical co-operation activities,

Emphasizing the common problems faced by all Member States in the administration and computerization of criminal justice, and that both developing and developed countries may, through an enhanced capacity for an exchange of information on an international level, benefit from such international co-operation in the process of computerization,

Mindful that technical co-operation requires extensive expertise and resources and new logistical arrangements for the speedy delivery of services relating to the computerization of criminal justice administration,

Noting with appreciation the draft directory of automated criminal justice information systems submitted by the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations, to the first United Nations workshop on computerization of criminal justice information, organized within the framework of the Eighth United Nations Congress,

1. *Calls upon* the Secretary-General, to the extent that the activities referred to in the present resolution cannot be undertaken within existing resources and with available expertise, to prepare proposals for submission to potential donors in the governmental, intergovernmental and private sectors, in possible consortium, to provide such funding and expertise; such proposals should include pilot projects to demonstrate the value and viability of such activities, and serve as a basis for ensuring long-term resource support from diverse sources;

2. *Requests* the Secretary-General, in co-operation with the network of regional and interregional institutes, to strengthen the Global Crime and Criminal Justice Information Network by:

(a) Developing and distributing appropriate publications, reports and newsletters;

(b) Developing a directory of innovative programmes for the computerization of the administration of criminal justice;

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(c) Organizing regional and interregional meetings, seminars and workshops on a continuing basis;

(d) Maintaining an up-to-date roster of individuals and organizations to form the basis of an international technical co-operation infrastructure;

(e) Enhancing communication between Member States by utilizing an electronic information network;

(f) Facilitating the exchange of criminal justice computer applications;

3. Requests the Secretary-General, in co-operation with the network of regional and interregional institutes, to establish a technical co-operation programme for the systematization and computerization of criminal justice in order to offer training, assess needs, formulate and execute specific projects, and to report on the results achieved to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

4. Further requests the Secretary-General to establish an international group of experts, which would be supported by the Department of Technical Co-operation for Development, would report regularly to the Secretary-General, and would have interregional representation and responsibility for:

(a) Reviewing and assessing national experiences in the computerization of criminal justice;

(b) Overseeing the establishment of the technical co-operation programme;

(c) Monitoring the activities of the technical co-operation programme;

(d) Informing Member States of the potential availability of funds and services from various donors in the governmental, intergovernmental and private sectors;

(e) Informing such donors of the needs of Member States for assistance;

(f) Consulting with relevant experts in the private sector in the field of criminal justice;

5. Requests that adequate information on the experience of Member States with systematization and computerization should be included and the necessary facilities for the exchange of general substantive information between Member States should be provided in the Global Crime and Criminal Justice Information Network;

6. Requests the Secretary-General and the Member States to pay special attention to the developing countries in co-operating and providing technical assistance for the formulation of information programmes and statistics regarding crime and criminal justice;

7. _Urges_ Member States, intergovernmental and non-governmental organizations, specialized agencies and other bodies, including in particular the United Nations Development Programme and the World Bank, and interested entities in the private sector with a technical co-operation programme, to consider giving high priority to criminal justice systematization and computerization projects in such programmes;

8. _Further urges_ Member States to assist the Secretary-General in the funding of the Global Crime and Criminal Justice Information Network, the technical co-operation programme and the work of the international group of experts;

9. _Requests_ the Committee on Crime Prevention and Control, in preparing the provisional agenda for the Ninth United Nations Congress, to consider including the question of computerization of the administration of criminal justice as one of the items on the agenda as well as the organization of the Second United Nations Computerization Workshop within the framework of the Ninth Congress in order to allow for the exchange of experiences in technical co-operation among Member States and other interested parties on the improvement of the administration of criminal justice.

DRAFT RESOLUTION IV

United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)

The General Assembly,

Bearing in mind the Universal Declaration of Human Rights [12] and the International Covenant on Civil and Political Rights, [13] as well as other international human rights instruments pertaining to the rights of persons in conflict with the law,

Bearing in mind also the Standard Minimum Rules for the Treatment of Prisoners, [14] adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and the important contribution of those Rules to national policies and practices,

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[12] General Assembly resolution 217 A (III).

[13] General Assembly resolution 2200 A (XXI), annex.

[14] See _Human Rights: A Compilation of International Instruments_ (United Nations publication, Sales No. E.88.XIV.1), sect. G.

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Recalling resolution 8 of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders [15] on alternatives to imprisonment,

Recalling also resolution 16 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders [16] on reduction of the prison population, alternatives to imprisonment, and social integration of offenders,

Recalling further Economic and Social Council resolution 1986/10 of 21 May 1986, section XI, on alternatives to imprisonment, in which the Secretary-General was requested to prepare a report on alternatives to imprisonment for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and to study that question with a view to the formulation of basic principles in that area, with the assistance of the regional institutes,

Recognizing the need to develop local, national, regional and international approaches and strategies in the field of non-institutional treatment of offenders and the need to formulate standard minimum rules, as emphasized in the report of the Committee on Crime Prevention and Control on its fourth session, concerning the methods and measures likely to be most effective in preventing crime and improving the treatment of offenders, [17]

Convinced that alternatives to imprisonment can be an effective means of treating offenders within the community to the best advantage of both the offenders and society,

Aware that the restriction of liberty is justifiable only from the viewpoints of public safety, crime prevention, just retribution and deterrence and that the ultimate goal of the criminal justice system is the reintegration of the offender into society,

Emphasizing that the increasing prison population and prison overcrowding in many countries constitute factors that create difficulties for the proper implementation of the Standard Minimum Rules for the Treatment of Prisoners,

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[15] See *Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, 25 August-5 September 1980: report prepared by the Secretariat* (United Nations publication, Sales No. E.81.IV.4), chap. I, sect. B.

[16] See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

[17] E/CN.5/536, annex.

Taking note with appreciation of the work accomplished by the Committee on Crime Prevention and Control, as well as the interregional preparatory meeting on criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures and by the regional preparatory meetings for the Eighth Congress,

Expressing its gratitude to the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders for the work accomplished in the development of the Standard Minimum Rules for Non-custodial Measures, as well as to the various intergovernmental and non-governmental organizations involved, in particular, the International Penal and Penitentiary Foundation for its contribution to the preparatory work,

1. Adopts the United Nations Standard Minimum Rules for Non-custodial Measures, contained in the annex to the present resolution, and approves the recommendation of the Committee on Crime Prevention and Control that the Rules should be known as the Tokyo Rules; 18/

2. Recommends the Tokyo Rules for national, regional and interregional action and implementation, taking into account the political, economic, social and cultural circumstances and traditions of each country;

3. Calls upon Member States to apply the Tokyo Rules in their policies and practice;

4. Invites Member States to bring the Tokyo Rules to the attention of, for example, law enforcement officials, prosecutors, judges, probation officers, lawyers, victims, offenders, social services and non-governmental organizations involved in the application of non-custodial measures, as well as members of the executive, the legislature and the general public;

5. Requests Member States to report on the implementation of the Tokyo Rules every five years, beginning in 1994;

6. Urges the regional commissions, the regional and interregional institutes in the field of the prevention of crime and the treatment of offenders, specialized agencies and other entities within the United Nations system, other intergovernmental organizations concerned and non-governmental organizations in consultative status with the Economic and Social Council to be actively involved in the implementation of the Tokyo Rules;

7. Calls upon the Committee on Crime Prevention and Control to consider, as a matter of priority, the implementation of the present resolution;

18/ A/CONF.144/IPM.4, chap. III, para. 73.

8. _Requests_ the Secretary-General to take the necessary steps to prepare a commentary to the Tokyo Rules, which is to be submitted to the Committee on Crime Prevention and Control at its twelfth session for approval and further dissemination, paying special attention to the legal safeguards, the implementation of the Rules and the development of similar guidelines at the regional level;

9. _Invites_ the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders to assist the Secretary-General in this task;

10. _Urges_ intergovernmental and non-governmental organizations and other entities concerned to remain actively involved in this initiative;

11. _Requests_ the Secretary-General to take steps, as appropriate, to ensure the widest possible dissemination of the Tokyo Rules, including their transmission to Governments, interested intergovernmental and non-governmental organizations and other parties concerned;

12. _Also requests_ the Secretary-General to prepare every five years, beginning in 1994, a report for the Committee on Crime Prevention and Control on the implementation of the Tokyo Rules;

13. _Further requests_ the Secretary-General to assist Member States, at their request, in the implementation of the Tokyo Rules and to report regularly thereon to the Committee on Crime Prevention and Control;

14. _Requests_ that the present resolution and the text of the annex be brought to the attention of all United Nations bodies concerned and be included in the next edition of the United Nations publication entitled _Human Rights: A Compilation of International Instruments_.

ANNEX

United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)

I. GENERAL PRINCIPLES

1. _Fundamental aims_

1.1 The present Standard Minimum Rules provide a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment.

1.2 The Rules are intended to promote greater community involvement in the management of criminal justice, specifically in the treatment of offenders, as well as to promote among offenders a sense of responsibility towards society.

1.3 The Rules shall be implemented taking into account the political, economic, social and cultural conditions of each country and the aims and objectives of its criminal justice system.

1.4 When implementing the Rules, Member States shall endeavour to ensure a proper balance between the rights of individual offenders, the rights of victims, and the concern of society for public safety and crime prevention.

1.5 Member States shall develop non-custodial measures within their legal systems to provide other options, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.

2. The scope of non-custodial measures

2.1 The relevant provisions of these Rules shall be applied to all persons subject to prosecution, trial or the execution of a sentence, at all stages of the administration of criminal justice. For the purposes of the Rules, these persons are referred to as "offenders", irrespective of whether they are suspected, accused or sentenced.

2.2 The Rules shall be applied without any discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status.

2.3 In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system should provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions. The number and types of non-custodial measures available should be determined in such a way so that consistent sentencing remains possible.

2.4 The development of new non-custodial measures should be encouraged and closely monitored and their use systematically evaluated.

2.5 Consideration shall be given to dealing with offenders in the community avoiding as far as possible resort to formal proceedings or trial by a court, in accordance with legal safeguards and the rule of law.

2.6 Non-custodial measures should be used in accordance with the principle of minimum intervention.

2.7 The use of non-custodial measures should be part of the movement towards depenalization and decriminalization instead of interfering with or delaying efforts in that direction.

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3. Legal safeguards

3.1 The introduction, definition and application of non-custodial measures shall be prescribed by law.

3.2 The selection of a non-custodial measure shall be based on an assessment of established criteria in respect of both the nature and gravity of the offence and the personality, background of the offender, the purposes of sentencing and the rights of victims.

3.3 Discretion by the judicial or other competent independent authority shall be exercised at all stages of the proceedings by ensuring full accountability and only in accordance with the rule of law.

3.4 Non-custodial measures imposing an obligation on the offender, applied before or instead of formal proceedings or trial, shall require the offender's consent.

3.5 Decisions on the imposition of non-custodial measures shall be subject to review by a judicial or other competent independent authority, upon application by the offender.

3.6 The offender shall be entitled to make a request or complaint to a judicial or other competent independent authority on matters affecting his or her individual rights in the implementation of non-custodial measures.

3.7 Appropriate machinery shall be provided for the recourse and, if possible, redress of any grievance related to non-compliance with internationally recognized human rights.

3.8 Non-custodial measures shall not involve medical or psychological experimentation on, or undue risk of physical or mental injury to, the offender.

3.9 The dignity of the offender subject to non-custodial measures shall be protected at all times.

3.10 In the implementation of non-custodial measures, the offender's rights shall not be restricted further than was authorized by the competent authority that rendered the original decision.

3.11 In the application of non-custodial measures, the offender's right to privacy shall be respected, as shall be the right to privacy of the offender's family.

3.12 The offender's personal records shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the offender's case or to other duly authorized persons.

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4. Saving clause

4.1 Nothing in these Rules shall be interpreted as precluding the application of the Standard Minimum Rules for the Treatment of Prisoners, 14/ the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 19/ the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 20/ or any other human rights instruments and standards recognized by the international community and relating to the treatment of offenders and the protection of their basic human rights.

II. PRE-TRIAL STAGE

5. Pre-trial dispositions

5.1 Where appropriate and compatible with the legal system, the police, the prosecution service or other agencies dealing with criminal cases should be empowered to discharge the offender if they consider that it is not necessary to proceed with the case for the protection of society, crime prevention or the promotion of respect for the law and the rights of victims. For the purpose of deciding upon the appropriateness of discharge or determination of proceedings, a set of established criteria shall be developed within each legal system. For minor cases the prosecutor may impose suitable non-custodial measures, as appropriate.

6. Avoidance of pre-trial detention

6.1 Pre-trial detention shall be used as a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society and the victim.

6.2 Alternatives to pre-trial detention shall be employed at as early a stage as possible. Pre-trial detention shall last no longer than necessary to achieve the objectives stated under rule 5.1 and shall be administered humanely and with respect for the inherent dignity of human beings.

6.3 The offender shall have the right to appeal to a judicial or other competent independent authority in cases where pre-trial detention is employed.

19/ General Assembly resolution 40/33, annex.

20/ General Assembly resolution 43/173, annex.

III. TRIAL AND SENTENCING STAGE

7. Social inquiry reports

7.1 If the possibility of social inquiry reports exists, the judicial authority may avail itself of a report prepared by a competent, authorized official or agency. The report should contain social information on the offender that is relevant to the person's pattern of offending and current offences. It should also contain information and recommendations that are relevant to the sentencing procedure. The report shall be factual, objective and unbiased, with any expression of opinion clearly identified.

8. Sentencing dispositions

8.1 The judicial authority, having at its disposal a range of non-custodial measures, should take into consideration in making its decision the rehabilitative needs of the offender, the protection of society and the interests of the victim, who should be consulted whenever appropriate.

8.2 Sentencing authorities may dispose of cases in the following ways:

(a) Verbal sanctions, such as admonition, reprimand and warning;

(b) Conditional discharge;

(c) Status penalties;

(d) Economic sanctions and monetary penalties, such as fines and day-fines;

(e) Confiscation or an expropriation order;

(f) Restitution to the victim or a compensation order;

(g) Suspended or deferred sentence;

(h) Probation and judicial supervision;

(i) A community service order;

(j) Referral to an attendance centre;

(k) House arrest;

(l) Any other mode of non-institutional treatment;

(m) Some combination of the measures listed above.

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IV. POST-SENTENCING STAGE

9. Post-sentencing dispositions

9.1 The competent authority shall have at its disposal a wide range of post-sentencing alternatives in order to avoid institutionalization and to assist offenders in their early reintegration into society.

9.2 Post-sentencing dispositions may include:

(a) Furlough and half-way houses;

(b) Work or education release;

(c) Various forms of parole;

(d) Remission;

(e) Pardon.

9.3 The decision on post-sentencing dispositions, except in the case of pardon, shall be subject to review by a judicial or other competent independent authority, upon application of the offender.

9.4 Any form of release from an institution to a non-custodial programme shall be considered at the earliest possible stage.

V. IMPLEMENTATION OF NON-CUSTODIAL MEASURES

10. Supervision

10.1 The purpose of supervision is to reduce reoffending and to assist the offender's integration into society in a way which minimizes the likelihood of a return to crime.

10.2 If a non-custodial measure entails supervision, the latter shall be carried out by a competent authority under the specific conditions prescribed by law.

10.3 Within the framework of a given non-custodial measure, the most suitable type of supervision and treatment should be determined for each individual case aimed at assisting the offender to work on his or her offending. Supervision and treatment should be periodically reviewed and adjusted as necessary.

10.4 Offenders should, when needed, be provided with psychological, social and material assistance and with opportunities to strengthen links with the community and facilitate their reintegration into society.

11. Duration

11.1 The duration of a non-custodial measure shall not exceed the period established by the competent authority in accordance with the law.

11.2 Provision may be made for early termination of the measure if the offender has responded favourably to it.

12. Conditions

12.1 If the competent authority shall determine the conditions to be observed by the offender, it should take into account both the needs of society and the needs and rights of the offender and the victim.

12.2 The conditions to be observed shall be practical, precise and as few as possible, and be aimed at reducing the likelihood of an offender relapsing into criminal behaviour and of increasing the offender's chances of social integration, taking into account the needs of the victim.

12.3 At the beginning of the application of a non-custodial measure, the offender shall receive an explanation, orally and in writing, of the conditions governing the application of the measure, including the offender's obligations and rights.

12.4 The conditions may be modified by the competent authority under the established statutory provisions, in accordance with the progress made by the offender.

13. Treatment process

13.1 Within the framework of a given non-custodial measure, in appropriate cases, various schemes, such as case-work, group therapy, residential programmes and the specialized treatment of various categories of offenders, should be developed to meet the needs of offenders more effectively.

13.2 Treatment should be conducted by professionals who have suitable training and practical experience.

13.3 When it is decided that treatment is necessary, efforts should be made to understand the offender's background, personality, aptitude, intelligence, values and, especially, the circumstances leading to the commission of the offence.

13.4 The competent authority may involve the community and social support systems in the application of non-custodial measures.

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13.5 Case-load assignments shall be maintained as far as practicable at a manageable level to ensure the effective implementation of treatment programmes.

13.6 For each offender, a case record shall be established and maintained by the competent authority.

14. Discipline and breach of conditions

14.1 A breach of the conditions to be observed by the offender may result in a modification or revocation of the non-custodial measure.

14.2 The modification or revocation of the non-custodial measure shall be made by the competent authority; this shall be done only after a careful examination of the facts adduced by both the supervising officer and the offender.

14.3 The failure of a non-custodial measure should not automatically lead to the imposition of a custodial measure.

14.4 In the event of a modification or revocation of the non-custodial measure, the competent authority shall attempt to establish a suitable alternative non-custodial measure. A sentence of imprisonment may be imposed only in the absence of other suitable alternatives.

14.5 The power to arrest and detain the offender under supervision in cases where there is a breach of the conditions shall be prescribed by law.

14.6 Upon modification or revocation of the non-custodial measure, the offender shall have the right to appeal to a judicial or other competent independent authority.

VI. STAFF

15. Recruitment

15.1 There shall be no discrimination in the recruitment of staff on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status. The policy regarding staff recruitment should take into consideration national policies of affirmative action and reflect the diversity of the offenders to be supervised.

15.2 Persons appointed to apply non-custodial measures should be personally suitable and, whenever possible, have appropriate professional training and practical experience. Such qualifications shall be clearly specified.

15.3 To secure and retain qualified professional staff, appropriate service status, adequate salary and benefits commensurate with the nature of the work should be ensured and ample opportunities should be provided for professional growth and career development.

16. Staff training

16.1 The objective of training shall be to make clear to staff their responsibilities with regard to rehabilitating the offender, ensuring the offender's rights and protecting society. Training should also give staff an understanding of the need to co-operate in and co-ordinate activities with the agencies concerned.

16.2 Before entering duty, staff shall be given training that includes instruction on the nature of non-custodial measures, the purposes of supervision and the various modalities of the application of non-custodial measures.

16.3 After entering duty, staff shall maintain and improve their knowledge and professional capacity by attending in-service training and refresher courses. Adequate facilities shall be made available for that purpose.

VII. VOLUNTEERS AND OTHER COMMUNITY RESOURCES

17. Public participation

17.1 Public participation should be encouraged as it is a major resource and one of the most important factors in improving ties between offenders undergoing non-custodial measures and the family and community. It should complement the efforts of the criminal justice administration.

17.2 Public participation should be regarded as an opportunity for members of the community to contribute to the protection of their society.

18. Public understanding and co-operation

18.1 Government agencies, the private sector and the general public should be encouraged to support voluntary organizations that promote non-custodial measures.

18.2 Conferences, seminars, symposia and other activities should be regularly organized to stimulate awareness of the need for public participation in the application of non-custodial measures.

18.3 All forms of the mass media should be utilized to help to create a constructive public attitude, leading to activities conducive to a broader application of non-custodial treatment and the social integration of offenders.

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18.4 Every effort should be made to inform the public of the importance of its role in the implementation of non-custodial measures.

19. Volunteers

19.1 Volunteers shall be carefully screened and recruited on the basis of their aptitude for and interest in the work involved. They shall be properly trained for the specific responsibilities to be discharged by them and shall have access to support and counselling from, and the opportunity to consult with, the competent authority.

19.2 Volunteers should encourage offenders and their families to develop meaningful ties with the community and a broader sphere of contact by providing counselling and other appropriate forms of assistance according to their capacity and the offenders' needs.

19.3 Volunteers shall be insured against accident, injury and public liability when carrying out their duties. They shall be reimbursed for authorized expenditures incurred in the course of their work. Public recognition should be extended to them for the services they render for the well-being of the community.

VIII. RESEARCH, PLANNING, POLICY FORMULATION AND EVALUATION

20. Research and planning

20.1 As an essential aspect of the planning process, efforts should be made to involve both public and private bodies in the organization and promotion of research on the non-custodial treatment of offenders.

20.2 Research on the problems that confront clients, practitioners, the community and policy makers should be carried out on a regular basis.

20.3 Research and information mechanisms should be built into the criminal justice system for the collection and analysis of data and statistics on the implementation of non-custodial treatment for offenders.

21. Policy formulation and programme development

21.1 Programmes for non-custodial measures should be systematically planned and implemented as an integral part of the criminal justice system within the national development process.

21.2 Regular evaluations should be carried out with a view to implementing non-custodial measures more effectively.

21.3 Periodic reviews should be conducted to assess the objectives, functioning and effectiveness of non-custodial measures.

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22. Linkages with relevant agencies and activities

22.1 Suitable mechanisms should be evolved at various levels to facilitate the establishment of linkages between services responsible for non-custodial measures, other branches of the criminal justice system, social development and welfare agencies, both governmental and non-governmental, in such fields as health, housing, education and labour, and the mass media.

23. International co-operation

23.1 Efforts shall be made to promote scientific co-operation between countries in the field of non-institutional treatment. Research, training, technical assistance and the exchange of information among Member States on non-custodial measures should be strengthened, through the United Nations regional and interregional institutes, in close collaboration with the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat.

23.2 Comparative studies and the harmonization of legislative provisions should be furthered to expand the range of non-institutional options and facilitate their application across national frontiers, in accordance with the Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released. 21/

DRAFT RESOLUTION V

Basic principles for the treatment of prisoners

The General Assembly,

Bearing in mind the long-standing concern of the United Nations for the humanization of criminal justice and the protection of human rights,

Bearing in mind also that sound policies of crime prevention and control are essential to viable planning for economic and social development,

Recognizing that the Standard Minimum Rules for the Treatment of Prisoners, 22/ adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, are of great value and influence in the development of penal policy and practice,

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21/ Sect. A, resolution 13.

22/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

Considering the concern of previous congresses regarding the obstacles of various kinds that prevent the full implementation of the Rules,

Believing that the full implementation of the Rules would be facilitated by the articulation of the basic principles underlying them,

Recalling resolution 10 on the status of prisoners and resolution 17 on the human rights of prisoners adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling also the statement submitted at the tenth session of the Committee on Crime Prevention and Control by the International Prisoners' Aid Association, Caritas Internationalis, the Commission of the Churches on International Affairs of the World Council of Churches, the International Association of Educators for World Peace, the International Council for Adult Education, the International Federation of Human Rights, the International Union of Students, the World Alliance of Young Men's Christian Associations and the World Council of Indigenous Peoples, which are non-governmental organizations in consultative status with the Economic and Social Council, category II,

Recalling further the relevant recommendation contained in the report of the interregional preparatory meeting for the Eighth Congress on criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures, 23/

Aware that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders coincides with International Literacy Year, proclaimed by the General Assembly in its resolution 42/104 of 7 December 1987,

Desiring to reflect the perspective noted by the Seventh Congress, namely, that the function of the criminal justice system is to contribute to safeguarding the basic values and norms of society,

Recognizing the usefulness of drafting a declaration on the human rights of prisoners,

Affirms the statement of basic principles for the treatment of prisoners, annexed to the present resolution, and requests the Secretary-General of the United Nations to draw it to the attention of Member States.

23/ A/CONF.144/IPM.4.

ANNEX

Statement of basic principles for the treatment of prisoners

1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.

2. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require.

4. The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a State's other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society.

5. Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, 24/ the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Optional Protocol, 25/ and such other rights as are set out in other United Nations covenants.

6. All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.

7. Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.

8. Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to contribute to their families' financial support and to their own.

9. Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.

24/ General Assembly resolution 217 A (III).

25/ General Assembly resolution 2200 A (XXI), annex.

10. With the participation and help of the community and social institution, and with due regard to the interests of victims, favourable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions.

11. The above principles shall be applied impartially.

DRAFT RESOLUTION VI

United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)

The General Assembly,

Bearing in mind the Universal Declaration of Human Rights, [26] the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, [27] and other international instruments pertaining to the rights and well-being of young persons, including relevant standards established by the International Labour Organisation,

Bearing in mind also the Declaration of the Rights of the Child, [28] the Convention on the Rights of the Child, [29] and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, [30]

Recalling General Assembly resolution 40/33 of 29 November 1985, in which the Assembly adopted the United Nations Standard Minimum Rules for the Administration of Juvenile Justice recommended by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling also that the General Assembly, in its resolution 40/35 of 29 November 1985, called for the development of standards for the prevention of juvenile delinquency which would assist Member States in formulating and implementing specialized programmes and policies, emphasizing assistance, care and community involvement, and called upon the Economic and Social Council to report to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the progress achieved with respect to these standards, for review and action,

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[26] General Assembly resolution 217 A (III).

[27] General Assembly resolution 2200 A (XXI), annex.

[28] General Assembly resolution 1386 (XIV).

[29] General Assembly resolution 44/25, annex.

[30] General Assembly resolution 40/33, annex.

Recalling further that the Economic and Social Council, in resolution 1986/10 of 21 May 1986, requested the Eighth Congress to consider the draft standards for the prevention of juvenile delinquency, with the view to their adoption,

Recognizing the need to develop national, regional and international approaches and strategies for the prevention of juvenile delinquency,

Affirming that every child has basic human rights, including, in particular, access to free education,

Mindful of the large number of young persons who may or may not be in conflict with the law but who are abandoned, neglected, abused, exposed to drug abuse, in marginal circumstances, and who are in general at social risk,

Taking into account the benefits of progressive policies for the prevention of delinquency and the welfare of the community,

1. *Notes with satisfaction* the substantive work accomplished by the Committee on Crime Prevention and Control and the Secretary-General in the formulation of the guidelines for the prevention of juvenile delinquency;

2. *Expresses appreciation* for the valuable collaboration of the Arab Security Studies and Training Centre at Riyadh, in hosting the International Meeting of Experts on the Development of the United Nations Draft Guidelines for the Prevention of Juvenile Delinquency, held at Riyadh from 28 February to 1 March 1988, in co-operation with the United Nations Office at Vienna;

3. *Adopts* the United Nations Guidelines for the Prevention of Juvenile Delinquency contained in the annex to the present resolution, to be designated the Riyadh Guidelines;

4. *Calls upon* Member States, in their comprehensive crime prevention plans, to apply the Guidelines in national law, policy and practice and to bring the Guidelines to the attention of relevant authorities, including policy makers, juvenile justice personnel, educators, the mass media, practitioners and scholars;

5. *Requests* the Secretary-General and invites Member States to ensure the widest possible dissemination of the text of the Guidelines in all of the official languages of the United Nations;

6. *Further requests* the Secretary-General and invites all relevant United Nations offices and interested institutions, in particular, the United Nations Children's Fund, as well as individual experts, to make a concerted effort to promote the application of the Guidelines;

7. Also requests the Secretary-General to intensify research on particular situations of social risk and on the exploitation of children, including the use of children as instruments of criminality, with a view to developing comprehensive countermeasures and to report to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders thereon;

8. Requests the Secretary-General to issue a composite manual on juvenile justice standards, containing the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), the United Nations Guidelines on the Prevention of Delinquency (The Riyadh Guidelines), and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and a set of full commentaries on their provisions;

9. Urges all relevant bodies within the United Nations system to collaborate with the Secretary-General in taking appropriate measures to ensure the implementation of the present resolution;

10. Invites the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights to consider this new international instrument with a view to promoting the application of its provisions;

11. Invites Member States to support strongly the organization of technical and scientific workshops, and pilot and demonstration projects on practical issues and policy matters relating to the application of the provisions of the Guidelines and to the establishment of concrete measures for community-based services designed to respond to the special needs, problems and concerns of young persons, and requests the Secretary-General to co-ordinate efforts in this respect;

12. Also invites Member States to inform the Secretary-General on the implementation of the Guidelines and to report regularly to the Committee on Crime Prevention and Control on the results achieved;

13. Recommends that the Committee on Crime Prevention and Control request the Ninth Congress to review the progress made in the promotion and application of the Riyadh Guidelines and of the recommendations contained in the present resolution, under a separate agenda item on juvenile justice and keep the matter under constant review.

ANNEX

United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)

I. FUNDAMENTAL PRINCIPLES

1. The prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful, socially useful activities and adopting a humanistic orientation towards society and outlook on life, young persons can develop non-criminogenic attitudes.

2. The successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood.

3. For the purposes of the interpretation of these guidelines, a child-centred orientation should be pursued. Young persons should have an active role and partnership within society and should not be considered as mere objects of socialization or control.

4. In the implementation of these Guidelines, in accordance with national legal systems, the well-being of young persons from their early childhood should be the focus of any preventive programme.

5. The need for and importance of progressive delinquency prevention policies and the systematic study and the elaboration of measures should be recognized. These should avoid criminalizing and penalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others. Such policies and measures should involve:

(a) The provision of opportunities, in particular educational opportunities, to meet the varying needs of young persons and to serve as a supportive framework for safeguarding the personal development of all young persons, particularly those who are demonstrably endangered or at social risk and are in need of special care and protection;

(b) Specialized philosophies and approaches for delinquency prevention, on the basis of laws, processes, institutions, facilities and a service delivery network aimed at reducing the motivation, need and opportunity for, or conditions giving rise to, the commission of infractions;

(c) Official intervention to be pursued primarily in the overall interest of the young person and guided by fairness and equity;

(d) Safeguarding the well-being, development, rights and interests of all young persons;

(e) Consideration that youthful behaviour or conduct that does not conform to overall social norms and values is often part of the maturation and growth process and tends to disappear spontaneously in most individuals with the transition to adulthood;

(f) Awareness that, in the predominant opinion of experts, labelling a young person as "deviant", "delinquent" or "pre-delinquent" often contributes to the development of a consistent pattern of undesirable behaviour by young persons.

6. Community-based services and programmes should be developed for the prevention of juvenile delinquency, particularly where no agencies have yet been established. Formal agencies of social control should only be utilized as a means of last resort.

II. SCOPE OF THE GUIDELINES

7. These Guidelines should be interpreted and implemented within the broad framework of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Declaration of the Rights of the Child and the Convention on the Rights of the Child, and in the context of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, as well as other instruments and norms relating to the rights, interests and well-being of all children and young persons.

8. These Guidelines should also be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

III. GENERAL PREVENTION

9. Comprehensive prevention plans should be instituted at every level of government and include the following:

(a) In-depth analyses of the problem and inventories of programmes, services, facilities and resources available;

(b) Well-defined responsibilities for the qualified agencies, institutions and personnel involved in preventive efforts;

(c) Mechanisms for the appropriate co-ordination of prevention efforts between governmental and non-governmental agencies;

(d) Policies, programmes and strategies based on prognostic studies to be continuously monitored and carefully evaluated in the course of implementation;

(e) Methods for effectively reducing the opportunity to commit delinquent acts;

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(f) Community involvement through a wide range of services and programmes;

(g) Close interdisciplinary co-operation between national, state, provincial and local governments, with the involvement of the private sector, representative citizens of the community to be served, and labour, child-care, health education, social, law enforcement and judicial agencies in taking concerted action to prevent juvenile delinquency and youth crime;

(h) Youth participation in delinquency prevention policies and processes, including recourse to community resources, youth self-help, and victim compensation and assistance programmes;

(i) Specialized personnel at all levels.

IV. SOCIALIZATION PROCESSES

10. Emphasis should be placed on preventive policies facilitating the successful socialization and integration of all children and young persons, in particular through the family, the community, peer groups, schools, vocational training and the world of work, as well as through voluntary organizations. Due respect should be given to the proper personal development of children and young persons, and they should be accepted as full and equal partners in socialization and integration processes.

A. Family

11. Every society should place a high priority on the needs and well-being of the family and of all its members.

12. Since the family is the central unit responsible for the primary socialization of children, governmental and social efforts to preserve the integrity of the family, including the extended family, should be pursued. The society has a responsibility to assist the family in providing care and protection and in ensuring the physical and mental well-being of children. Adequate arrangements including day-care should be provided.

13. Governments should establish policies that are conducive to the bringing up of children in stable and settled family environments. Families in need of assistance in the resolution of conditions of instability or conflict should be provided with requisite services.

14. Where a stable and settled family environment is lacking and when community efforts to assist parents in this regard have failed and the extended family cannot fulfil this role, alternative placements, including foster care and adoption, should be considered. Such placements should replicate, to the extent possible, a stable and settled family environment, while, at the same time, establishing a sense of permanency for children, thus avoiding problems associated with "foster drift".

15. Special attention should be given to children of families affected by problems brought about by rapid and uneven economic, social and cultural change, in particular the children of indigenous, migrant and refugee families. As such changes may disrupt the social capacity of the family to secure the traditional rearing and nurturing of children, often as a result of role and culture conflict, innovative and socially constructive modalities for the socialization of children have to be designed.

16. Measures should be taken and programmes developed to provide families with the opportunity to learn about parental roles and obligations as regards child development and child care, promoting positive parent-child relationships, sensitizing parents to the problems of children and young persons and encouraging their involvement in family and community-based activities.

17. Governments should take measures to promote family cohesion and harmony and to discourage the separation of children from their parents, unless circumstances affecting the welfare and future of the child leave no viable alternative.

18. It is important to emphasize the socialization function of the family and extended family; it is also equally important to recognize the future role, responsibilities, participation and partnership of young persons in society.

19. In ensuring the right of the child to proper socialization, Governments and other agencies should rely on existing social and legal agencies, but, whenever traditional institutions and customs are no longer effective, they should also provide and allow for innovative measures.

B. Education

20. Governments are under an obligation to make public education accessible to all young persons.

21. Education systems should, in addition to their academic and vocational training activities, devote particular attention to the following:

(a) Teaching of basic values and developing respect for the child's own cultural identity and patterns, for the social values of the country in which the child is living, for civilizations different from the child's own and for human rights and fundamental freedoms;

(b) Promotion and development of the personality, talents and mental and physical abilities of young people to their fullest potential;

(c) Involvement of young persons as active and effective participants in, rather than mere objects of, the educational process;

(d) Undertaking activities that foster a sense of identity with and of belonging to the school and the community;

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(e) Encouragement of young persons to understand and respect diverse views and opinions, as well as cultural and other differences;

(f) Provision of information and guidance regarding vocational training, employment opportunities and career development;

(g) Provision of positive emotional support to young persons and the avoidance of psychological maltreatment;

(h) Avoidance of harsh disciplinary measures, particularly corporal punishment.

22. Educational systems should seek to work together with parents, community organizations and agencies concerned with the activities of young persons.

23. Young persons and their families should be informed about the law and their rights and responsibilities under the law, as well as the universal value system, including United Nations instruments.

24. Educational systems should extend particular care and attention to young persons who are at social risk. Specialized prevention programmes and educational materials, curricula, approaches and tools should be developed and fully utilized.

25. Special attention should be given to comprehensive policies and strategies for the prevention of alcohol, drug and other substance abuse by young persons. Teachers and other professionals should be equipped and trained to prevent and deal with these problems. Information on the use and abuse of drugs, including alcohol, should be made available to the student body.

26. Schools should serve as resource and referral centres for the provision of medical, counselling and other services to young persons, particularly those with special needs and suffering from abuse, neglect, victimization and exploitation.

27. Through a variety of educational programmes, teachers and other adults and the student body should be sensitized to the problems, needs and perceptions of young persons, particularly those belonging to underpriviledged, disadvantaged, ethnic or other minority and low-income groups.

28. School systems should attempt to meet and promote the highest professional and educational standards with respect to curricula, teaching and learning methods and approaches, and the recruitment and training of qualified teachers. Regular monitoring and assessment of performance by the appropriate professional organizations and authorities should be ensured.

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29. School systems should plan, develop and implement extra-curricular activities of interest to young persons, in co-operation with community groups.

30. Special assistance should be given to children and young persons who find it difficult to comply with attendance codes, and to "drop-outs".

31. Schools should promote policies and rules that are fair and just; students should be represented in school policy, including policy on discipline, and decision-making.

C. Community

32. Community-based services and programmes which respond to the special needs, problems, interests and concerns of young persons and which offer appropriate counselling and guidance to young persons and their families should be developed, or strengthened where they exist.

33. Communities should provide, or strengthen where they exist, a wide range of community-based support measures for young persons, including community development centres, recreational facilities and services to respond to the special problems of children who are at social risk. In providing these helping measures, respect for individual rights should be ensured.

34. Special facilities should be set up to provide adequate shelter for young persons who are no longer able to live at home or who do not have homes to live in.

35. A range of services and helping measures should be provided to deal with the difficulties experienced by young persons in the transition to adulthood. Such services should include special programmes for young drug abusers which emphasize care, counselling, assistance and therapy-oriented interventions.

36. Voluntary organizations providing services for young persons should be given financial and other support by Governments and other institutions.

37. Youth organizations should be created or strengthened at the local level and given full participatory status in the management of community affairs. These organizations should encourage youth to organize collective and voluntary projects, particularly projects aimed at helping young persons in need of assistance.

38. Government agencies should take special responsibility and provide necessary services for homeless or street children; information about local facilities, accommodation, employment and other forms and sources of help should be made readily available to young persons.

39. A wide range of recreational facilities and services of particular interest to young persons should be established and made easily accessible to them.

D. Mass media

40. The mass media should be encouraged to ensure that young persons have access to information and material from a diversity of national and international sources.

41. The mass media should be encouraged to portray the positive contribution of young persons to society.

42. The mass media should be encouraged to disseminate information on the existence of services, facilities and opportunities for young persons in society.

43. The mass media generally, and the television and film media in particular, should be encouraged to minimize the level of pornography, drugs and violence portrayed and to display violence and exploitation disfavourably, as well as to avoid demeaning and degrading presentations, especially of children, women and interpersonal relations, and to promote egalitarian principles and roles.

44. The mass media should be aware of its extensive social role and responsibility, as well as its influence, in communications relating to youthful drug and alcohol abuse. It should use its power for drug abuse prevention by relaying consistent messages through a balanced approach. Effective drug awareness campaigns at all levels should be promoted.

V. SOCIAL POLICY

45. Government agencies should give high priority to plans and programmes for young persons and should provide sufficient funds and other resources for the effective delivery of services, facilities and staff for adequate medical and mental health care, nutrition, housing and other relevant services, including drug and alcohol abuse prevention and treatment, ensuring that such resources reach and actually benefit young persons.

46. The institutionalization of young persons should be a measure of last resort and for the minimum necessary period, and the best interests of the young person should be of paramount importance. Criteria authorizing formal intervention of this type should be strictly defined and limited to the following situations: (a) where the child or young person has suffered harm that has been inflicted by the parents or guardians; (b) where the child or young person has been sexually, physically or emotionally abused by the parents or guardians; (c) where the child or young person has been neglected, abandoned or exploited by the parents or guardians; (d) where the child or young person is threatened by physical or moral danger due to the behaviour of the parents or guardians; and (e) where a serious physical or psychological danger to the child or young person has manifested itself in his or her own behaviour and neither the parents, guardians or the juvenile him or herself nor non-residential community services can meet the danger by means other than institutionalization.

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47. Government agencies should provide young persons with the opportunity of continuing in full-time education, funded by the State where parents or guardians are unable to support the young persons, and of receiving work experience.

48. Programmes to prevent delinquency should be planned and developed on the basis of reliable, scientific research findings, and periodically monitored, evaluated and adjusted accordingly.

49. Scientific information should be disseminated to the professional community and to the public at large about the sort of behaviour or situation which indicates or may result in physical and psychological victimization, harm and abuse, as well as exploitation, of young persons.

50. Generally, participation in plans and programmes should be voluntary. Young persons themselves should be involved in their formulation, development and implementation.

51. Governments should begin or continue to explore, develop and implement policies, measures and strategies within and outside the criminal justice system to prevent domestic violence against and affecting young persons and to ensure fair treatment to these victims of domestic violence.

VI. LEGISLATION AND JUVENILE JUSTICE ADMINISTRATION

52. Governments should enact and enforce specific laws and procedures to promote and protect the rights and well-being of all young persons.

53. Legislation preventing the victimization, abuse, exploitation and the use for criminal activities of children and young persons should be enacted and enforced.

54. No child or young person should be subjected to harsh or degrading correction or punishment measures at home, in schools or in any other institutions.

55. Legislation and enforcement aimed at restricting and controlling accessibility of weapons of any sort to children and young persons should be pursued.

56. In order to prevent further stigmatization, victimization and criminalization of young persons, legislation should be enacted to ensure that any conduct not considered an offence or penalized if committed by an adult is not considered an offence or penalized if committed by a young person.

57. Consideration should be given to the establishment of an office of ombudsman or similar independent organ, which would ensure that the status, rights and interests of young persons are upheld and that proper referral to available services is made. The ombudsman or other organ designated would

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also supervise the implementation of the Riyadh Guidelines, the Beijing Rules and the Rules for the Protection of Juveniles Deprived of their Liberty. The ombudsman or other organ would, at regular intervals, publish a report on the progress made and on the difficulties encountered in the implementation of the instrument. Child advocacy services should also be established.

58. Law enforcement and other relevant personnel, of both sexes, should be trained to respond to the special needs of young persons and should be familiar with and use, to the maximum extent possible, programmes and referral possibilities for the diversion of young persons from the justice system.

59. Legislation should be enacted and strictly enforced to protect children and young persons from drug abuse and drug traffickers.

VII. RESEARCH, POLICY DEVELOPMENT AND CO-ORDINATION

60. Efforts should be made and appropriate mechanisms established to promote, on both a multidisciplinary and an intradisciplinary basis, interaction and co-ordination between economic, social, educational and health agencies and services, the justice system, youth, community and development agencies and other relevant institutions.

61. The exchange of information, experience and expertise gained through projects, programmes, practices and initiatives relating to youth crime, delinquency prevention and juvenile justice should be intensified at the national, regional and international levels.

62. Regional and international co-operation on matters of youth crime, delinquency prevention and juvenile justice involving practitioners, experts and decision makers should be further developed and strengthened.

63. Technical and scientific co-operation on practical and policy-related matters, particularly in training, pilot and demonstration projects, and on specific issues concerning the prevention of youth crime and juvenile delinquency should be strongly supported by all Governments, the United Nations system and other concerned organizations.

64. Collaboration should be encouraged in undertaking scientific research with respect to effective modalities for youth crime and juvenile delinquency prevention and the findings of such research should be widely disseminated and evaluated.

65. Appropriate United Nations bodies, institutes, agencies and offices should pursue close collaboration and co-ordination on various questions related to children, juvenile justice and youth crime and juvenile delinquency prevention.

66. On the basis of these Guidelines, the United Nations Secretariat, in co-operation with interested institutions, should play an active role in the

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conduct of research, scientific collaboration, the formulation of policy options and the review and monitoring of their implementation, and should serve as a source of reliable information on effective modalities for delinquency prevention.

DRAFT RESOLUTION VII

United Nations Rules for the Protection of Juveniles Deprived of their Liberty

The General Assembly,

Bearing in mind the Universal Declaration of Human Rights, 31/ the International Covenant on Civil and Political Rights, 32/ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 33/ and the Convention on the Rights of the Child, 34/ as well as other international instruments relating to the protection of the rights and well-being of young persons,

Bearing in mind also the Standard Minimum Rules for the Treatment of Prisoners 35/ adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind also the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, approved by the General Assembly in its resolution 43/173 of 9 December 1988,

Recalling the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 36/

31/ General Assembly resolution 217 A (III).

32/ General Assembly resolution 2200 A (XXI), annex.

33/ General Assembly resolution 39/46, annex.

34/ General Assembly resolution 44/25, annex.

35/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

36/ General Assembly resolution 40/33, annex.

Recalling also resolution 21 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 37/ in which the Congress called for the development of United Nations rules for the protection of juveniles deprived of their liberty,

Recalling further that the Economic and Social Council, in resolution 1986/10, section II, of 21 May 1986, requested the Secretary-General to report on progress achieved in respect of the rules to the Committee on Crime Prevention and Control at its tenth session and requested the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider the proposed rules with a view to their adoption,

Alarmed at the conditions and circumstances under which juveniles are being deprived of their liberty world wide,

Aware that juveniles deprived of their liberty are highly vulnerable to abuse, victimization and the violation of their rights,

Concerned that many systems do not differentiate between adults and juveniles at various stages of justice administration and that juveniles are therefore being held in gaols and facilities with adults,

1. Affirms that the placement of a juvenile in an institution should always be a disposition of last resort and for the minimum necessary period;

2. Recognizes that, because of their high vulnerability, juveniles deprived of their liberty require special attention and protection and that their rights and well-being should be guaranteed during and after the period when they are deprived of their liberty;

3. Notes with appreciation the valuable work of the United Nations Secretariat and the collaboration which has been established between the Secretariat and experts, practitioners, intergovernmental organizations, the non-governmental community, particulary Amnesty International, Defence for Children International and Rädda Barnen (Swedish Save the Children), and scientific institutions concerned with children's rights and juvenile justice in developing the rules;

4. Adopts the United Nations Rules for the Protection of Juveniles Deprived of their Liberty contained in the annex to the present resolution;

37/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: Report of the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

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5. _Calls upon_ the Committee on Crime Prevention and Control to formulate measures for the effective implementation of the Rules, with the assistance of the United Nations institutes on the prevention of crime and the treatment of offenders;

6. _Invites_ Member States to adapt, wherever necessary, their national legislation, policies and practices, particularly in training all categories of juvenile justice personnel, to the spirit of the Rules, and to bring them to the attention of relevant authorities and the public in general;

7. _Also invites_ Member States to inform the Secretary-General of their efforts to apply the Rules in law, policy and practice and to report regularly to the Committee on Crime Prevention and Control on the results achieved in their implementation;

8. _Requests_ the Secretary-General and invites Member States to ensure the widest possible dissemination of the text of the Rules in all of the official languages of the United Nations;

9. _Requests_ the Secretary-General to conduct comparative research, pursue the requisite collaboration and to devise strategies to deal with the different categories of serious and persistent young offenders and prepare a policy-oriented report thereon to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

10. _Requests_ the Secretary-General and urges Member States to allocate the necessary resources to ensure the successful application and implementation of the Rules, in particular in the areas of recruitment, training and exchange of all categories of juvenile justice personnel;

11. _Urges_ all relevant bodies of the United Nations system, in particular the United Nations Children's Fund, the regional commissions and specialized agencies, the United Nations institutes for the prevention of crime and the treatment of offenders and all concerned intergovernmental and non-governmental organizations, to collaborate with the Secretary-General and to take the necessary measures to ensure a concerted and sustained effort within their respective fields of technical competence to promote the application of the Rules;

12. _Invites_ the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights to consider this new international instrument, with a view to promoting the application of its provisions;

13. _Requests_ the Ninth Congress to review the progress made on the promotion and application of the Rules and on the recommendations contained in the present resolution, under a separate agenda item on juvenile justice.

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ANNEX

United Nations Rules for the Protection of Juveniles Deprived of their Liberty

I. FUNDAMENTAL PERSPECTIVES

1. The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.

2. Juveniles should only be deprived of their liberty in accordance with the principles and procedures set forth in these Rules and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice. Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. The length of the sanction should be determined by the judicial authority, without precluding the possibility of his or her early release.

3. The Rules are intended to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in all forms, consistent with human rights and fundamental freedoms, and with a view to counteracting the detrimental effects of all types of detention and to fostering integration in society.

4. The Rules should be applied impartially, without discrimination of any kind as to race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability. The religious and cultural beliefs, practices and moral concepts of the juvenile should be respected.

5. The Rules are designed to serve as convenient standards of reference and to provide encouragement and guidance to professionals involved in the management of the juvenile justice system.

6. The Rules should be made readily available to juvenile justice personnel in their national languages. Juveniles who are not fluent in the language spoken by the personnel of the detention facility should have the right to the services of an interpreter free of charge whenever necessary, in particular during medical examinations and disciplinary proceedings.

7. Where appropriate, States should incorporate the Rules into their legislation or amend it accordingly and provide effective remedies for their breach, including compensation when injuries are inflicted on juveniles. States should also monitor the application of the Rules.

8. The competent authorities should constantly seek to increase the awareness of the public that the care of detained juveniles and preparation for their return to society is a social service of great importance, and to

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this end active steps should be taken to foster open contacts between the juveniles and the local community.

9. Nothing in the Rules should be interpreted as precluding the application of the relevant United Nations and human rights instruments and standards, recognized by the international community, that are more conducive to the rights, care and protection of juveniles, children and all young persons.

10. In the event that the practical application of particular Rules contained in parts II to V, inclusive, of these Rules presents any conflict with the Rules contained in part I, compliance with the latter shall be regarded as the predominant requirement.

II. SCOPE AND APPLICATION OF THE RULES

11. For the purposes of the Rules, the following definitions should apply:

(a) A juvenile is every person under the age of 18. The age limit below which it should not be permitted to deprive a child of his or her liberty should be determined by law;

(b) The deprivation of liberty means any form of detention or imprisonment or the placement of a person in another public or private custodial setting from which this person is not permitted to leave at will by order of any judicial, administrative or other public authority.

12. The deprivation of liberty should be effected in conditions and circumstances which ensure respect for the human rights of juveniles. Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programmes which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.

13. Juveniles deprived of their liberty shall not for any reason related to their status be denied the civil, economic, political, social or cultural rights to which they are entitled under national or international law, and which are compatible with the deprivation of liberty.

14. The protection of the individual rights of juveniles with special regard to the legality of the execution of the detention measures shall be ensured by the competent authority, while the objectives of social integration should be secured by regular inspections and other means of control carried out, according to international standards, national laws and regulations, by a duly constituted body authorized to visit the juveniles and not belonging to the detention facility.

15. The Rules apply to all types and forms of detention facilities in which juveniles are deprived of their liberty. Parts I, II, IV and V of the Rules

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apply to all detention facilities and institutional settings in which juveniles are detained, and part III applies specifically to juveniles under arrest or awaiting trial.

16. The Rules shall be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

III. JUVENILES UNDER ARREST OR AWAITING TRIAL

17. Juveniles who are detained under arrest or awaiting trial ("untried") are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.

18. The conditions under which an untried juvenile is detained should be consistent with the rules set out below, with additional specific provisions as are necessary and appropriate, given the requirements of the presumption of innocence, the duration of the detention and the legal status and circumstances of the juvenile. These provisions would include, but not necessarily be restricted to, the following:

(a) Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available, and to communicate regularly with their legal advisers. Privacy and confidentiality shall be ensured for such communications;

(b) Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so. Work, education or training should not cause the continuation of the detention;

(c) Juveniles should receive and retain materials for their leisure and recreation as are compatible with the interests of the administration of justice.

IV. THE MANAGEMENT OF JUVENILE FACILITIES

A. Records

19. All reports, including legal records, medical records and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment, should be placed in a confidential individual file, which should be kept up to date, accessible only to authorized persons and classified in such a way as to be easily understood.

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Where possible, every juvenile should have the right to contest any fact or opinion contained in his or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, there should be procedures that allow an appropriate third party to have access to and to consult the file on request. Upon release, the records of juveniles shall be sealed, and, at an appropriate time, expunged.

20. No juvenile should be received in any detention facility without a valid commitment order of a judicial, administrative or other public authority. The details of this order should be immediately entered in the register. No juvenile should be detained in any facility where there is no such register.

B. Admission, registration, movement and transfer

21. In every place where juveniles are detained, a complete and secure record of the following information should be kept concerning each juvenile received:

(a) Information on the identity of the juvenile;

(b) The fact of and reasons for commitment and the authority therefor;

(c) The day and hour of admission, transfer and release;

(d) Details of the notifications to parents and guardians on every admission, transfer or release of the juvenile in their care at the time of commitment;

(e) Details of known physical and mental health problems, including drug and alcohol abuse.

22. The above-mentioned information on admission, place, transfer and release should be provided without delay to the parents and guardians or closest relative of the juvenile concerned.

23. As soon as possible after reception, full reports and relevant information on the personal situation and circumstances of each juvenile should be drawn up and submitted to the administration.

24. On admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints, as well as the address of public or private agencies and organizations which provide legal assistance. For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension.

25. All juveniles should be helped to understand the regulations governing the internal organization of the facility, the goals and methodology of the

care provided, the disciplinary requirements and procedures, other authorized methods of seeking information and of making complaints, and all such other matters as are necessary to enable them to understand fully their rights and obligations during detention.

26. The transport of juveniles should be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that should in no way subject them to hardship or indignity. Juveniles should not be transferred from one facility to another arbitrarily.

C. Classification and placement

27. As soon as possible after the moment of admission, each juvenile should be interviewed, and a psychological and social report identifying any factors relevant to the specific type and level of care and programme required by the juvenile should be prepared. This report, together with the report prepared by a medical officer who has examined the juvenile upon admission, should be forwarded to the director for purposes of determining the most appropriate placement for the juvenile within the facility and the specific type and level of care and programme required and to be pursued. When special rehabilitative treatment is required, and the length of stay in the facility permits, trained personnel of the facility should prepare a written, individualized treatment plan specifying treatment objectives and time-frame and the means, stages and delays with which the objectives should be approached.

28. The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.

29. In all detention facilities juveniles should be separated from adults, unless they are members of the same family. Under controlled conditions, juveniles may be brought together with carefully selected adults as part of a special programme that has been shown to be beneficial for the juveniles concerned.

30. Open detention facilities for juveniles should be established. Open detention facilities are those with no or minimal security measures. The population in such detention facilities should be as small as possible. The number of juveniles detained in closed facilities should be small enough to enable individualized treatment. Detention facilities for juveniles should be decentralized and of such size as to facilitate access and contact between the juveniles and their families. Small-scale detention facilities should be established and integrated into the social, economic and cultural environment of the community.

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D. Physical environment and accommodation

31. Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

32. The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the juvenile for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities. The design and structure of juvenile detention facilities should be such as to minimize the risk of fire and to ensure safe evacuation from the premises. There should be an effective alarm system in case of fire, as well as formal and drilled procedures to ensure the safety of the juveniles. Detention facilities should not be located in areas where there are known health or other hazards or risks.

33. Sleeping accommodation should normally consist of small group dormitories or individual bedrooms, while bearing in mind local standards. During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas, including individual rooms and group dormitories, in order to ensure the protection of each juvenile. Every juvenile should, in accordance with local or national standards, be provided with separate and sufficient bedding, which should be clean when issued, kept in good order and changed often enough to ensure cleanliness.

34. Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy and in a clean and decent manner.

35. The possession of personal effects is a basic element of the right to privacy and essential to the psychological well-being of the juvenile. The right of every juvenile to possess personal effects and to have adequate storage facilities for them should be fully recognized and respected. Personal effects that the juvenile does not choose to retain or that are confiscated should be placed in safe custody. An inventory thereof should be signed by the juvenile. Steps should be taken to keep them in good condition. All such articles and money should be returned to the juvenile on release, except in so far as he or she has been authorized to spend money or send such property out of the facility. If a juvenile receives or is found in possession of any medicine, the medical officer should decide what use should be made of it.

36. To the extent possible juveniles should have the right to use their own clothing. Detention facilities should ensure that each juvenile has personal clothing suitable for the climate and adequate to ensure good health, and which should in no manner be degrading or humiliating. Juveniles removed from or leaving a facility for any purpose should be allowed to wear their own clothing.

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37. Every detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every juvenile at any time.

E. Education, vocational training and work

38. Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.

39. Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.

40. Diplomas or educational certificates awarded to juveniles while in detention should not indicate in any way that the juvenile has been institutionalized.

41. Every detention facility should provide access to a library that is adequately stocked with both instructional and recreational books and periodicals suitable for the juveniles, who should be encouraged and enabled to make full use of it.

42. Every juvenile should have the right to receive vocational training in occupations likely to prepare him or her for future employment.

43. With due regard to proper vocational selection and to the requirements of institutional administration, juveniles should be able to choose the type of work they wish to perform.

44. All protective national and international standards applicable to child labour and young workers should apply to juveniles deprived of their liberty.

45. Wherever possible, juveniles should be provided with the opportunity to perform remunerated labour, if possible within the local community, as a complement to the vocational training provided in order to enhance the possibility of finding suitable employment when they return to their communities. The type of work should be such as to provide appropriate training that will be of benefit to the juveniles following release. The organization and methods of work offered in detention facilities should

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resemble as closely as possible those of similar work in the community, so as to prepare juveniles for the conditions of normal occupational life.

46. Every juvenile who performs work should have the right to an equitable remuneration. The interests of the juveniles and of their vocational training should not be subordinated to the purpose of making a profit for the detention facility or a third party. Part of the earnings of a juvenile should normally be set aside to constitute a savings fund to be handed over to the juvenile on release. The juvenile should have the right to use the remainder of those earnings to purchase articles for his or her own use or to indemnify the victim injured by his or her offence or to send it to his or her family or other persons outside the detention facility.

F. Recreation

47. Every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities. Every juvenile should have additional time for daily leisure activities, part of which should be devoted, if the juvenile so wishes, to arts and crafts skill development. The detention facility should ensure that each juvenile is physically able to participate in the available programmes of physical education. Remedial physical education and therapy should be offered, under medical supervision, to juveniles needing it.

G. Religion

48. Every juvenile should be allowed to satisfy the needs of his or her religious and spiritual life, in particular by attending the services or meetings provided in the detention facility or by conducting his or her own services and having possession of the necessary books or items of religious observance and instruction of his or her denomination. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request. Every juvenile should have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and freely to decline religious education, counselling or indoctrination.

H. Medical care

49. Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care, as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through

the appropriate health facilities and services of the community in which the detention facility is located, in order to prevent stigmatization of the juvenile and promote self-respect and integration into the community.

50. Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention.

51. The medical services provided to juveniles should seek to detect and should treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society. Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer.

52. Any medical officer who has reason to believe that the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention should report this fact immediately to the director of the detention facility in question and to the independent authority responsible for safeguarding the well-being of the juvenile.

53. A juvenile who is suffering from mental illness should be treated in a specialized institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release.

54. Juvenile detention facilities should adopt specialized drug abuse prevention and rehabilitation programmes administered by qualified personnel. These programmes should be adapted to the age, sex and other requirements of the juveniles concerned, and detoxification facilities and services staffed by trained personnel should be available to drug- or alcohol-dependent juveniles.

55. Medicines should be administered only for necessary treatment on medical grounds and, when possible, after having obtained the informed consent of the juvenile concerned. In particular, they must not be administered with a view to eliciting information or a confession, as a punishment or as a means of restraint. Juveniles shall never be testees in the experimental use of drugs and treatment. The administration of any drug should always be authorized and carried out by qualified medical personnel.

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I. Notification of illness, injury and death

56. The family or guardian of a juvenile and any other person designated by the juvenile have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than 48 hours. Notification should also be given to the consular authorities of the State of which a foreign juvenile is a citizen.

57. Upon the death of a juvenile during the period of deprivation of liberty, the nearest relative should have the right to inspect the death certificate, see the body and determine the method of disposal of the body. Upon the death of a juvenile in detention, there should be an independent inquiry into the causes of death, the report of which should be made accessible to the nearest relative. This inquiry should also be made when the death of a juvenile occurs within six months from the date of his or her release from the detention facility and there is reason to believe that the death is related to the period of detention.

58. A juvenile should be informed at the earliest possible time of the death, serious illness or injury of any immediate family member and should be provided with the opportunity to attend the funeral of the deceased or go to the bedside of a critically ill relative.

J. Contacts with the wider community

59. Every means should be provided to ensure that juveniles have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential to the preparation of juveniles for their return to society. Juveniles should be allowed to communicate with their families, friends and other persons or representatives of reputable outside organizations, to leave detention facilities for a visit to their home and family and to receive special permission to leave the detention facility for educational, vocational or other important reasons. Should the juvenile be serving a sentence, the time spent outside a detention facility should be counted as part of the period of sentence.

60. Every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defence counsel.

61. Every juvenile should have the right to communicate in writing or by telephone at least twice a week with the person of his or her choice, unless

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legally restricted, and should be assisted as necessary in order effectively to enjoy this right. Every juvenile should have the right to receive correspondence.

62. Juveniles should have the opportunity to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, through access to radio and television programmes and motion pictures, and through the visits of the representatives of any lawful club or organization in which the juvenile is interested.

K. Limitations of physical restraint and the use of force

63. Recourse to instruments of restraint and to force for any purpose should be prohibited, except as set forth in rule 64.

64. Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority.

65. The carrying and use of weapons by personnel should be prohibited in any facility where juveniles are detained.

L. Disciplinary procedures

66. Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life and should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person.

67. All disciplinary measures constituting cruel, inhumane or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose. Labour should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile in preparing him or her for return to the community and should not be imposed as a disciplinary sanction. No juvenile should be sanctioned more than once for the same disciplinary infraction. Collective sanctions should be prohibited.

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68. Legislation or regulations adopted by the competent administrative authority should establish norms concerning the following, taking full account of the fundamental characteristics, needs and rights of juveniles:

(a) Conduct constituting a disciplinary offence;

(b) Type and duration of disciplinary sanctions that may be inflicted;

(c) The authority competent to impose such sanctions;

(d) The authority competent to consider appeals.

69. A report of misconduct should be presented promptly to the competent authority, which should decide on it without undue delay. The competent authority should conduct a thorough examination of the case.

70. No juvenile should be disciplinarily sanctioned except in strict accordance with the terms of the law and regulations in force. No juvenile should be sanctioned unless he or she has been informed of the alleged infraction in a manner appropriate to the full understanding of the juvenile, and given a proper opportunity of presenting his or her defence, including the right of appeal to a competent impartial authority. Complete records should be kept of all disciplinary proceedings.

71. No juveniles should be responsible for disciplinary functions except in the supervision of specified social, educational or sports activities or in self-government programmes.

M. Inspection and complaints

72. Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

73. Qualified medical officers attached to the inspecting authority or the public health service should participate in the inspections, evaluating compliance with the rules concerning the physical environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of juveniles. Every juvenile should have the right to talk in confidence to any inspecting officer.

74. After completing the inspection, the inspector should be required to submit a report on the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.

75. Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorized representative.

76. Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

77. Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.

78. Every juvenile should have the right to request assistance from family members, legal counsellors, humanitarian groups or others where possible, in order to make a complaint. Illiterate juveniles should be provided with assistance should they need to use the services of public or private agencies and organizations which provide legal counsel or which are competent to receive complaints.

N. Return to the community

79. All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release. Procedures, including early release, and special courses should be devised to this end.

80. Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society and to lessen prejudice against such juveniles. These services should ensure, to the extent possible, that the juvenile is provided with suitable residence, employment, clothing, and sufficient means to maintain himself or herself upon release in order to facilitate successful reintegration. The representatives of agencies providing such services should be consulted and should have access to juveniles while detained, with a view to assisting them in their return to the community.

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V. PERSONNEL

81. Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists. These and other specialist staff should normally be employed on a permanent basis. This should not preclude part-time or volunteer workers when this is appropriate and beneficial to the level of support and training they can provide. Detention facilities should make use of all remedial, educational, moral, spiritual, and other resources and forms of assistance that are appropriate and available in the community, according to the individual needs and problems of detained juveniles.

82. The administration should provide for the careful selection and recruitment of every grade and type of personnel, since the proper management of detention facilities depends on their integrity, humanity, ability and professional capacity to deal with juveniles, as well as personal suitability for the work.

83. To secure the foregoing ends, personnel should be appointed as professional officers with adequate remuneration to attract and retain suitable women and men. The personnel of juvenile detention facilities should be continually encouraged to fulfil their duties and obligations in a humane, committed, professional, fair and efficient manner, to conduct themselves at all times in such a way as to deserve and gain the respect of the juveniles, and to provide juveniles with a positive role model and perspective.

84. The administration should introduce forms of organization and management that facilitate communications between different categories of staff in each detention facility so as to enhance co-operation between the various services engaged in the care of juveniles, as well as between staff and the administration, with a view to ensuring that staff directly in contact with juveniles are able to function in conditions favourable to the efficient fulfilment of their duties.

85. The personnel should receive such training as will enable them to carry out their responsibilities effectively, including in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present rules. The personnel should maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career.

86. The director of a facility should be adequately qualified for his or her task by administrative ability, suitable training and experience, and should carry out his or her duties on a full-time basis.

87. In the performance of their duties, personnel of detention facilities should respect and protect the human dignity and fundamental human rights of all juveniles. In particular:

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(a) No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever;

(b) All personnel should rigorously oppose and combat any act of corruption, reporting it without delay to the competent authorities;

(c) All personnel should respect the present Rules. Personnel who have reason to believe that a serious violation of the present Rules has occurred or is about to occur should report the matter to their superior authorities or organs vested with reviewing or remedial power;

(d) All personnel should ensure the full protection of the physical and mental health of juveniles, including protection from physical, sexual and emotional abuse and exploitation, and should take immediate action to secure medical attention whenever required;

(e) All personnel should respect the right of the juvenile to privacy, and in particular should safeguard all confidential matters concerning juveniles or their families learned as a result of their professional capacity;

(f) All personnel should seek to minimize any differences between life inside and outside the detention facility which tend to lessen due respect to the dignity of juveniles as human beings.

DRAFT RESOLUTION VIII

Domestic violence

The General Assembly,

Reaffirming its resolution 40/36 of 29 November 1985 on domestic violence and resolution 6 adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan, Italy, from 26 August to 6 September 1985, 38/ concerning the fair treatment of women by the criminal justice system,

Taking into account the recommendations made at the Expert Group Meeting on violence in the family, held at Vienna from 8 to 12 December 1986,

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38/ See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

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Also taking into account the recommendations made on the subject of domestic violence by the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held at Nairobi from 15 to 26 July 1985, 39/ the resolution on domestic violence against women submitted to the Second Committee of the Conference, and the recommendations and conclusions arising from the first review and appraisal of the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women to the Year 2000, 40/

Commending the efforts of the United Nations, *inter alia*, through the Convention on the Elimination of All Forms of Discrimination against Women 41/ and the Convention on the Rights of the Child, 42/ to guarantee the human rights of women and children,

Recognizing the need for further work to be undertaken with respect to violence against all members of the family unit,

Welcoming the report of the Secretary-General on domestic violence, 43/

Recalling that, in its resolution 44/82 of 8 December 1989, it proclaimed 1994 the International Year of the Family,

Bearing in mind the serious lack of information and research on domestic violence globally and the need for exchange of information on ways of dealing with this problem,

Recognizing the concern of Member States about domestic violence as an urgent problem deserving focused attention and concerted action,

Aware that domestic violence is a critical problem that has serious physical and psychological effects on individual family members and that jeopardizes the health and survival of the family unit,

Recognizing that domestic violence may take many forms, both physical and psychological,

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39/ See *Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985* (United Nations publication, Sales No. E.85.IV.10).

40/ E/CN.6/1990/5.

41/ General Assembly resolution 34/180.

42/ General Assembly resolution 44/25, annex.

43/ A/CONF.144/17.

Convinced of the necessity to improve the situation of the victims of domestic violence,

Recognizing the need to focus on all victims of domestic violence and to consider common policies and specialized approaches regarding women, children, the elderly and those especially vulnerable because of disability,

Noting that the effects of exposure to domestic violence, especially during childhood, may produce long-term effects or attitudes and behaviour, including increased tolerance to violence in society as a whole,

Aware of the fact that many offenders, including many of the victims and those convicted of offences relating to domestic violence, were themselves abused as children,

Recognizing the fact that domestic violence is often a recurring phenomenon and that an effective early response, as part of a crime prevention policy, may prevent the occurrence of future incidents,

Convinced that the problem of domestic violence is prevalent and affects all segments of society regardless of class, income, culture, gender, age or religion,

Conscious that the complex problem of domestic violence is viewed differently in various cultures of different countries and that at the international level it must be addressed with sensitivity to the cultural context in each country,

1. Urges Member States to begin or continue to explore, develop and implement multidisciplinary policies, measures and strategies, within and outside of the criminal justice system, with respect to domestic violence in all its facets, including legal, law enforcement, judicial, societal, educational, psychological, economic, health-related and correctional aspects and, in particular:

(a) To take all possible steps to prevent domestic violence;

(b) To ensure fair treatment of and effective assistance to the victims of domestic violence;

(c) To increase awareness and sensitivity concerning domestic violence, in particular by fostering the education of criminal justice and other professionals in regard to this issue;

(d) To provide appropriate treatment for the offenders;

2. Recommends that Member States ensure that their systems of criminal justice and the competent bodies for juveniles and their families provide an effective and equitable response to domestic violence and that they take appropriate steps towards achieving this goal;

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3. _Urges_ Member States to exchange information, experience and research findings between governmental and non-governmental organizations regarding domestic violence and, in so doing, recommends the use of the United Nations Criminal Justice Information Network and other available means to facilitate the exchange of information concerning domestic violence and the means of curtailing it;

4. _Invites_ Member States, the Secretary-General and concerned intergovernmental and non-governmental organizations to include the problem of domestic violence in the preparations for and observance of the International Year of the Family, within the crime prevention and criminal justice area;

5. _Requests_ the Secretary-General to convene a working group of experts, within existing or with extrabudgetary resources, to formulate guidelines or a manual for practitioners concerning the problem of domestic violence for consideration at the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and its regional preparatory meetings, taking into account the conclusions of the report of the Secretary-General on the prevention of domestic violence; [43]

6. _Requests_ the Committee on Crime Prevention and Control to consider placing the topic of domestic violence on the agenda of the Ninth United Nations Congress as a matter of priority.

DRAFT RESOLUTION IX

Instrumental use of children in criminal activities

The General Assembly,

Bearing in mind the Convention on the Rights of the Child [44] and the Declaration of the Rights of the Child, [45] as well as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, [46]

Bearing in mind also the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), [47] the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh

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[44] General Assembly resolution 44/25, annex.

[45] General Assembly resolution 1386 (XIV).

[46] E/CONF.82/15 and Corr.2.

[47] General Assembly resolution 40/33, annex.

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Guidelines) 48/ and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 49/

Recalling that, in its resolution 44/82 of 8 December 1989, it proclaimed 1994 the International Year of the Family,

Recalling and reaffirming its resolutions 43/121 of 8 December 1988 on the use of children in the illicit traffic in narcotic drugs and 40/35 of 29 November 1985 on the prevention of juvenile delinquency and Economic and Social Council resolutions 1989/66 on the Beijing Rules and 1990/33 of 24 May 1990 on the prevention of drug consumption among young persons,

Recognizing that within the traditional forms of child exploitation the instrumental use of children in criminal activities, especially those aimed at illicit profit making, has become an increasingly grave phenomenon,

Concerned that children are being led into a criminal lifestyle by adults, which blocks their developmental opportunities for a healthy and responsible role in society,

Considering that the instrumental use by adults of children in profit-making criminal activities is a grave practice that represents a violation of social norms and a deprivation of the right of children to a proper development, education and upbringing and prejudices their future,

Emphasizing that categories of children, such as those who are runaway, vagrant, wayward or "street children", are targets for exploitation, including seduction into drug trafficking and abuse, prostitution, pornography, theft, burglary, begging and homicide for reward,

1. *Requests* Member States and the Secretary-General to take measures with a view to formulating programmes to deal with the problem of the instrumental use of children in criminal activities and to take effective action, including the following:

(a) To undertake research and a systematic analysis of the phenomenon;

(b) To develop training and awareness-raising activities in order to make law enforcement and other justice personnel, as well as policy makers, sensitive to those situations of social risk which cause children to be manipulated by adults in order to cause them to engage in crime;

(c) To take measures in combating criminality with a view to ensuring that appropriate sanctions be applied to adults who are the instigators and authors of crimes, rather than on the children involved who themselves are victims of criminality by virtue of their being exposed to crime;

48/ Sect. A, resolution 6.

49/ *Ibid*., resolution 7.

/...

(d) To develop comprehensive policies, programmes and effective preventive and remedial measures, in order to eliminate the involvement and exploitation of children by adults in criminal activities;

2. *Requests* the Secretary-General to study the situation in different countries and to report on the implementation of the present resolution to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

3. *Also requests* the Secretary-General to invite the collaboration of the Centre for Human Rights and the Division of Narcotic Drugs of the United Nations Secretariat, the United Nations Fund for Drug Abuse Control, the World Health Organization, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees, the United Nations Educational, Scientific and Cultural Organization and the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders and other concerned institutes in the implementation of the present resolution;

4. *Requests* the Committee on Crime Prevention and Control to consider this matter and to keep it under constant review.

DRAFT RESOLUTION X

Model Treaty on Extradition

The General Assembly,

Bearing in mind the Milan Plan of Action, [50] adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the General Assembly in its resolution 40/32 of 29 November 1985,

Bearing in mind also the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, [51] which, in principle 37, stipulate that the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation,

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[50] See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

[51] *Ibid*., sect. B.

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Recalling resolution 1 of the Seventh Congress, 52/ in which Member States were urged, *inter alia*, to increase their activity at the international level in order to combat organized crime, including, as appropriate, entering into bilateral treaties on extradition and mutual legal assistance,

Recalling also resolution 23 of the Seventh Congress on criminal acts of a terrorist character, 52/ in which all States were called upon to take steps to strengthen co-operation, *inter alia*, in the area of extradition,

Calling attention to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 53/

Acknowledging the valuable contributions of Governments, non-governmental organizations and individual experts, in particular the Government of Australia and the International Association of Penal Law,

Gravely concerned by the escalation of crime, both national and transnational,

Convinced that the establishment of bilateral and multilateral arrangements for extradition will greatly contribute to developing more effective international co-operation for the control of crime,

Conscious of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in the Universal Declaration of Human Rights 54/ and the International Covenant on Civil and Political Rights, 55/

Conscious that in many cases existing bilateral extradition arrangements are outdated and should be replaced by modern arrangements taking into account recent developments in international criminal law,

Recognizing the importance of the model treaty on extradition as an effective way of dealing with the complex aspects and serious consequences of crime, especially in its new forms and dimensions,

1. *Adopts* the Model Treaty on Extradition contained in the annex to the present resolution as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral agreements aimed at improving co-operation in matters of crime prevention and criminal justice;

52/ *Ibid*., sect. E.

53/ E/CONF.82/15 and Corr.2.

54/ General Assembly resolution 217 A (III).

55/ General Assembly resolution 2200 A (XXI), annex.

/...

2. *Invites* Member States, if they have not yet established treaty relations with other States in the area of extradition, or if they wish to revise existing treaty relations, to take into account, whenever doing so, the Model Treaty on Extradition;

3. *Urges* all States to strengthen international co-operation further in criminal justice;

4. *Requests* the Secretary-General to bring the present resolution, with the Model Treaty, to the attention of Member States;

5. *Also urges* Member States to inform the Secretary-General periodically of efforts undertaken to establish extradition arrangements;

6. *Requests* the Committee on Crime Prevention and Control to review periodically the progress attained in this field;

7. *Requests* the Committee on Crime Prevention and Control, where requested, to provide guidance and assistance to Member States in the development of legislation which would enable giving effect to the obligations in such treaties as are to be negotiated on the basis of the Model Treaty on Extradition;

8. *Invites* Member States, on request, to make available to the Secretary-General the provisions of their extradition legislation enabling these to be made available to such Member States desiring to enact or further develop legislation in this field.

ANNEX

Model Treaty on Extradition

The ______________________________ and the ______________________________

Desirous of making more effective the co-operation of the two countries in the control of crime by concluding a treaty on extradition,

Have agreed as follows:

ARTICLE 1

Obligation to extradite

Each Party agrees to extradite to the other, upon request and subject to the provisions of this Treaty, any person who is wanted in the requesting

State for prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence. 56/

ARTICLE 2

Extraditable offences

1. For the purposes of this Treaty, extraditable offences are offences that are punishable under the laws of both Parties by imprisonment or other deprivation of liberty for a maximum period of at least [one/two] year(s), or by a more severe penalty. Where the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment or other deprivation of liberty imposed for such an offence, extradition shall be granted only if a period of at least [four/six] months of such sentence remains to be served.

2. In determining whether an offence is an offence punishable under the laws of both Parties, it shall not matter whether:

(a) The laws of the Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology;

(b) Under the laws of the Parties the constituent elements of the offence differ, it being understood that the totality of the acts or omissions as presented by the requesting State shall be taken into account.

3. Where extradition of a person is sought for an offence against a law relating to taxation, customs duties, exchange control or other revenue matters, extradition may not be refused on the ground that the law of the requested State does not impose the same kind of tax or duty or does not contain a tax, customs duty or exchange regulation of the same kind as the law of the requesting State. 57/

4. If the request for extradition includes several separate offences each of which is punishable under the laws of both Parties, but some of which do not fulfil the other conditions set out in paragraph 1 of this article, the requested Party may grant extradition for the latter offences provided that the person is to be extradited for at least one extraditable offence.

56/ Reference to the imposition of a sentence may not be necessary for all countries.

57/ Some countries may wish to omit this paragraph or provide an optional ground for refusal under article 4.

ARTICLE 3

Mandatory grounds for refusal

Extradition shall not be granted in any of the following circumstances:

(a) If the offence for which extradition is requested is regarded by the requested State as an offence of a political nature; 58/

(b) If the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons;

(c) If the offence for which extradition is requested is an offence under military law, which is not also an offence under ordinary criminal law;

(d) If there has been a final judgement rendered against the person in the requested State in respect of the offence for which the person's extradition is requested;

(e) If the person whose extradition is requested has, under the law of either Party, become immune from prosecution or punishment for any reason, including lapse of time or amnesty; 59/

(f) If the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in the International Covenant on Civil and Political Rights, article 14; 55/

(g) If the judgement of the requesting State has been rendered *in absentia*, the convicted person has not had sufficient notice of the trial nor the opportunity to arrange for his or her defence and he has not had or

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58/ Some countries may wish to use the following addition: "Reference to an offence of a political nature shall not include any offence in respect of which the Parties have assumed an obligation, pursuant to any multilateral convention, to take prosecutorial action where they do not extradite, nor any other offence agreed by the Parties not to be an offence of a political character for the purposes of extradition."

59/ Some countries may wish to make this an optional ground for refusal under article 4.

/...

will not have the opportunity to have the case retried in his or her presence. 60/

ARTICLE 4

Optional grounds for refusal

Extradition may be refused in any of the following circumstances:

(a) If the person whose extradition is requested is a national of the requested State. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person in respect of the offence for which extradition had been requested;

(b) If the competent authorities of the requested State have decided either not to institute or to terminate proceedings against the person for the offence in respect of which extradition is requested;

(c) If a prosecution in respect of the offence for which extradition is requested is pending in the requested State against the person whose extradition is requested;

(d) If the offence for which extradition is requested carries the death penalty under the law of the requesting State, unless that State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out; 61/

(e) If the offence for which extradition is requested has been committed outside the territory of either Party and the law of the requested State does not provide for jurisdiction over such an offence committed outside its territory in comparable circumstances;

(f) If the offence for which extradition is requested is regarded under the law of the requested State as having been committed in whole or in part within that State. 62/ Where extradition is refused on this ground, the

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60/ Some countries may wish to add to article 3 the following ground for refusal: "If there is insufficient proof, according to the evidentiary standards of the requested State, that the person whose extradition is requested is a party to the offence" (see also footnote 617).

61/ Some countries may wish to apply the same restriction to the imposition of a life, or indeterminate, sentence.

62/ Some countries may wish to make specific reference to a vessel under its flag or an aircraft registered under its laws at the time of the commission of the offence.

requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition had been requested;

(g) If the person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the requesting State by an extraordinary or ad hoc court or tribunal;

(h) If the requested State, while also taking into account the nature of the offence and the interests of the requesting State, considers that, in the circumstances of the case, the extradition of that person would be incompatible with humanitarian considerations in view of age, health or other personal circumstances of that person.

ARTICLE 5

Channels of communication and required documents

1. A request for extradition shall be made in writing. The request, supporting documents and subsequent communications shall be transmitted through the diplomatic channel, directly between the ministries of justice or any other authorities designated by the Parties.

2. A request for extradition shall be accompanied by the following:

(a) In all cases,

(i) As accurate a description as possible of the person sought, together with any other information that may help to establish that person's identity, nationality and location;

(ii) The text of the relevant provision of the law creating the offence or, where necessary, a statement of the relevant law as to the offence and a statement of the penalty that can be imposed for the offence;

(b) If the person is accused of an offence, by a warrant issued by a court or other competent judicial authority for the arrest of the person or a certified copy of that warrant, a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the alleged offence, including an indication of the time and place of its commission; 63/

63/ Countries that require a judicial assessment of the sufficiency of evidence may wish to add the following clause: "... and sufficient proof in a form acceptable under the law of the requested State, establishing, according to the evidentiary standards of that State, that the person is a party to the offence" (see also footnote 58).

(c) If the person has been convicted of an offence, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by the original or certified copy of the judgement or any other document setting out the conviction and the sentence imposed, the fact that the sentence is enforceable, and the extent to which the sentence remains to be served;

(d) If the person has been convicted of an offence in his or her absence, in addition to the documents set out in paragraph 2 (c) of this article, by a statement as to the legal means available to the person to prepare his or her defence or to have the case retried in his or her presence;

(e) If the person has been convicted of an offence but no sentence has been imposed, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by a document setting out the conviction and a statement affirming that there is an intention to impose a sentence.

3. The documents submitted in support of a request for extradition shall be accompanied by a translation into the language of the requested State or in another language acceptable to that State.

ARTICLE 6

Simplified extradition procedure

The requested State, if not precluded by its law, may grant extradition after receipt of a request for provisional arrest, provided that the person sought explicitly consents before a competent authority.

ARTICLE 7

Certification and authentication

Except as provided by this Treaty, a request for extradition and the supporting documents thereto, as well as documents or other material supplied in response to such a request, shall not require certification or authentication. 64/

64/ The laws of some countries require authentication before documents transmitted from other countries can be admitted in their courts and, therefore, would require a clause setting out the authentication required.

ARTICLE 8

Additional information

If the requested State considers that the information provided in support of a request for extradition is not sufficient, it may request that additional information be furnished within such reasonable time as it specifies.

ARTICLE 9

Provisional arrest

1. In case of urgency the requesting State may apply for the provisional arrest of the person sought pending the presentation of the request for extradition. The application shall be transmitted by means of the facilities of the International Criminal Police Organization, by post or telegraph or by any other means affording a record in writing.

2. The application shall contain a description of the person sought, a statement that extradition is to be requested, a statement of the existence of one of the documents mentioned in paragraph 2 of article 5 authorizing the apprehension of the person, a statement of the punishment that can be or has been imposed for the offence, including the time left to be served and a concise statement of the facts of the case, and a statement of the location, where known, of the person.

3. The requested State shall decide on the application in accordance with its law and communicate its decision to the requesting State without delay.

4. The person arrested upon such an application shall be set at liberty upon the expiration of [40] days from the date of arrest if a request for extradition, supported by the relevant documents specified in paragraph 2 of article 5, has not been received. This paragraph does not preclude the possibility of conditional release of the person prior to the expiration of the [40] days.

5. The release of the person pursuant to paragraph 4 of this article shall not prevent rearrest and institution of proceedings with a view to extraditing the person sought if the request and supporting documents are subsequently received.

ARTICLE 10

Decision on the request

1. The requested State shall deal with the request for extradition pursuant to procedures provided by its own law, and shall promptly communicate its decision to the requesting State.

/...

2. Reasons shall be given for any complete or partial refusal of the request.

ARTICLE 11

Surrender of the person

1. Upon being informed that extradition has been granted, the Parties shall, without undue delay, arrange for the surrender of the person sought and the requested State shall inform the requesting State of the length of time for which the person sought was detained with a view to surrender.

2. The person shall be removed from the territory of the requested State within such reasonable period as the requested State specifies and, if the person is not removed within that period, the requested State may release the person and may refuse to extradite that person for the same offence.

3. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party. The two Parties shall mutually decide upon a new date of surrender, and the provisions of paragraph 2 of this article shall apply.

ARTICLE 12

Postponed or conditional surrender

1. The requested State may, after making its decision on the request for extradition, postpone the surrender of a person sought, in order to proceed against that person, or, if that person has already been convicted, in order to enforce a sentence imposed for an offence other than that for which extradition is sought. In such case the requested State shall advise the requesting State accordingly.

2. The requested State may, instead of postponing surrender, temporarily surrender the person sought to the requesting State in accordance with conditions to be determined between the Parties.

ARTICLE 13

Surrender of property

1. To the extent permitted under the law of the requested State and subject to the rights of third parties, which shall be duly respected, all property found in the requested State that has been acquired as a result of the offence or that may be required as evidence shall, if the requesting State so requests, be surrendered if extradition is granted.

2. The said property may, if the requesting State so requests, be surrendered to the requesting State even if the extradition having been agreed to cannot be carried out.

3. When the said property is liable to seizure or confiscation in the requested State, it may retain it or temporarily hand it over.

4. Where the law of the requested State or the protection of the rights of third parties so require, any property so surrendered shall be returned to the requested State free of charge after the completion of the proceedings, if that State so requests.

ARTICLE 14

Rule of speciality

1. A person extradited under this Treaty shall not be proceeded against, sentenced, detained, re-extradited to a third State, or subjected to any other restriction of personal liberty in the territory of the requesting State for any offence committed before surrender other than:

(a) An offence for which extradition was granted;

(b) Any other offence in respect of which the requested State consents. [65] Consent shall be given if the offence for which it is requested is itself subject to extradition in accordance with this Treaty. [66]

2. A request for the consent of the requested State under this article shall be accompanied by the documents mentioned in paragraph 2 of article 5 and a legal record of any statement made by the extradited person with respect to the offence.

3. Paragraph 1 of this article shall not apply if the person has had an opportunity to leave the requesting State and has not done so within [30/45] days of final discharge in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the requesting State after leaving it.

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[65] Some countries may wish to add, as a third case, explicit consent of the person.

[66] Some countries may not wish to assume that obligation and may wish to include other grounds in determining whether or not to grant consent.

ARTICLE 15

Transit

1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to which the person is to be extradited shall request the other Party to permit the transit of that person through its territory. This does not apply where air transport is used and no landing in the territory of the other Party is scheduled.

2. Upon receipt of such a request, which shall contain relevant information, the requested State shall deal with this request pursuant to procedures provided by its own law. The requested State shall grant the request expeditiously unless its essential interests would be prejudiced thereby. [67]

3. The State of transit shall ensure that legal provisions exist enabling the person to be held in custody during transit.

4. In the event of an unscheduled landing, the Party to be requested to permit transit may, at the request of the escorting officer, hold the person in custody for [48] hours, pending receipt of the transit request to be made in accordance with paragraph 1 of this article.

ARTICLE 16

Concurrent requests

If a Party receives requests for extradition for the same person from both the other Party and a third State it shall, at its discretion, determine to which of those States the person is to be extradited.

ARTICLE 17

Costs

1. The requested State shall meet the cost of any proceedings in its jurisdiction arising out of a request for extradition.

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[67] Some countries may wish to agree on other grounds for refusal, which may also warrant refusal for extradition, such as those related to the nature of the offence (e.g. political, fiscal, military) or to the status of the person (e.g. own nationals).

/...

2. The requested State shall also bear the costs incurred in its territory in connection with the seizure and handing over of property, or the arrest and detention of the person whose extradition is sought. 68/

3. The requesting State shall bear the costs incurred in conveying the person from the territory of the requested State, including transit costs.

ARTICLE 18

Final provisions

1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of (ratification, acceptance or approval) are exchanged.

3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which such notice is received by the other Party.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

______________________________ ______________________________

Done at ____________ on ____________ in the ____________________
and ____________ languages (both) texts being equally authentic.
(all)

68/ Some countries may wish to consider reimbursement of costs incurred as a result of withdrawal of a request for extradition or provisional arrest.

DRAFT RESOLUTION XI

Model Treaty on Mutual Assistance in Criminal Matters

The General Assembly,

Bearing in mind the Milan Plan of Action, 69/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the General Assembly in its resolution 40/32 of 29 November 1985,

Bearing in mind also the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, 70/ which, in principle 37, stipulate that the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation,

Recalling resolution 1 of the Seventh Congress 71/ on organized crime, in which Member States were urged, *inter alia*, to increase their activity at the international level in order to combat organized crime, including, as appropriate, entering into bilateral treaties on extradition and mutual legal assistance,

Recalling also resolution 23 of the Seventh Congress 71/ on criminal acts of a terrorist character, in which all States were called upon to take steps to strengthen co-operation particularly, *inter alia*, in the area of mutual assistance,

Recalling further the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 72/

Acknowledging the valuable contributions to the model treaty on mutual assistance in criminal matters that Governments, non-governmental organizations and individual experts have made, in particular the Government of Australia and the International Association of Penal Law,

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69/ See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

70/ *Ibid*., sect. B.

71/ *Ibid*., sect. E.

72/ E/CONF.82/15 and Corr.2.

Gravely concerned by the escalation of crime, both national and transnational,

Convinced that the establishment of bilateral and multilateral arrangements for mutual assistance in criminal matters will greatly contribute to developing more effective international co-operation for the control of criminality,

Conscious of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in the Universal Declaration of Human Rights 73/ and the International Covenant on Civil and Political Rights, 74/

Recognizing the importance of the model treaty on mutual assistance in criminal matters as an effective way of dealing with the complex aspects and serious consequences of crime, especially in its new forms and dimensions,

1. Adopts the Model Treaty on Mutual Assistance in Criminal Matters together with its Optional Protocol, contained in the annex to the present resolution, as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral agreements aimed at improving co-operation in matters of crime prevention and criminal justice;

2. Invites Member States, if they have not yet established treaty relations with other States in the matter of mutual assistance in criminal matters, or if they wish to revise existing treaty relations, to take into account, whenever doing so, the Model Treaty on Mutual Assistance in Criminal Matters;

3. Urges all States to strengthen international co-operation and mutual assistance further in criminal justice;

4. Requests the Secretary-General to bring the present resolution, with the Model Treaty, to the attention of Governments;

5. Also urges Member States to inform the Secretary-General periodically of efforts undertaken to establish mutual assistance arrangements in criminal matters;

6. Requests the Committee on Crime Prevention and Control to review periodically the progress attained in this field;

73/ General Assembly resolution 217 A (III).

74/ General Assembly resolution 2200 A (XXI), annex.

/...

7. _Requests_ the Committee on Crime Prevention Prevention and Control, where requested, to provide guidance and assistance to Member States in the development of legislation which would enable giving effect to the obligations which will be contained in such treaties as are to be negotiated on the basis of the Model Treaty on Mutual Assistance in Criminal Matters;

8. _Invites_ Member States, on request, to make available to the Secretary-General the provisions of their legislation on mutual assistance in criminal matters enabling these to be made available to such Member States desiring to enact or further develop legislation in this field.

ANNEX

Model Treaty on Mutual Assistance in Criminal Matters

The ________________________ and the _________________________

Desirous of extending to each other the widest measure of co-operation to combat crime,

Have agreed as follows:

ARTICLE 1

Scope of application _75_/

1. The Parties shall, in accordance with this Treaty, afford to each other the widest possible measure of mutual assistance in investigations or court proceedings in respect of offences the punishment of which at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the Requesting State.

2. Mutual assistance to be afforded in accordance with this Treaty may include:

(a) Taking evidence or statements from persons;

(b) Assisting in the availability of detained persons or others to give evidence or assist in investigations;

(c) Effecting service of judicial documents;

_75_/ Additions to the scope of assistance to be provided can be considered bilaterally, such as provisions covering information on sentences passed on nationals of the Parties. Obviously, such assistance must be compatible with the law of the Requested State.

/...

(d) Executing searches and seizures;

(e) Examining objects and sites;

(f) Providing information and evidentiary items;

(g) Providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records.

3. This Treaty does not apply to:

(a) The arrest or detention of any person with a view to the extradition of that person;

(b) The enforcement in the Requested State of criminal judgements imposed in the Requesting State except to the extent permitted by the law of the Requested State and the Optional Protocol to this Treaty;

(c) The transfer of persons in custody to serve sentences;

(d) The transfer of proceedings in criminal matters.

ARTICLE 2

Other arrangements [76]

Unless the Parties decide otherwise, this Treaty shall not affect obligations subsisting between them whether pursuant to other treaties or arrangements or otherwise.

ARTICLE 3

Designation of competent authorities

Each Party shall designate and indicate to the other Party an authority or authorities by or through which requests for the purpose of this Treaty should be made or received.

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[76] This article recognizes the continuing role of informal assistance between law enforcement agencies and associated agencies in different countries.

ARTICLE 4

Refusal of assistance 77/

1. Assistance may be refused if: 78/

(a) The Requested State is of the opinion that the request, if granted, would prejudice its sovereignty, security, public order (ordre public) or other essential public interests;

(b) The offence is regarded by the Requested State as being of a political nature;

(c) There are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions or that that person's position may be prejudiced for any of those reasons;

(d) The request relates to an offence that is subject to investigation or prosecution in the Requested State or the prosecution of which in the Requesting State would be incompatible with the Requested State's law on double jeopardy (ne bis in idem);

(e) The assistance requested requires the Requested State to carry out compulsory measures that are inconsistent with its law and practice had the offence been the subject of investigation or prosecution under its own jurisdiction;

(f) The act is an offence under military law, which is not also an offence under ordinary criminal law.

2. Assistance shall not be refused solely on the ground of secrecy of banks and similar financial institutions.

3. The Requested State may postpone the execution of the request if its immediate execution would interfere with an ongoing investigation or prosecution in the Requested State.

77/ This article provides an illustrative list of the grounds for refusal.

78/ Some countries may wish to delete or modify some of the provisions or include other grounds for refusal, such as those related to the nature of the offence (e.g. fiscal), the nature of the applicable penalty (e.g. capital punishment), requirements of shared concepts (e.g. double jurisdiction, no lapse of time) or specific kinds of assistance (e.g. interception of telecommunications, performing deoxyribonucleic-acid (DNA) tests). In particular, some countries may wish to include as a grounds for refusal the fact that the act on which the request is based would not be an offence if committed in the territory of the Requested State (dual criminality).

/...

4. Before refusing a request or postponing its execution, the Requested State shall consider whether assistance may be granted subject to certain conditions. If the Requesting State accepts assistance subject to these conditions, it shall comply with them.

5. Reasons shall be given for any refusal or postponement of mutual assistance.

ARTICLE 5

Contents of requests [79]

1. Requests for assistance shall include:

(a) The name of the requesting office and the competent authority conducting the investigation or court proceedings to which the request relates;

(b) The purpose of the request and a brief description of the assistance sought;

(c) A description of the facts alleged to constitute the offence and a statement or text of the relevant laws, except in cases of a request for service of documents;

(d) The name and address of the person to be served, where necessary;

(e) The reasons for and details of any particular procedure or requirement that the Requesting State wishes to be followed, including a statement as to whether sworn or affirmed evidence or statements are required;

(f) Specification of any time-limit within which compliance with the request is desired;

(g) Such other information as is necessary for the proper execution of the request.

2. Requests, supporting documents and other communications made pursuant to this Treaty shall be accompanied by a translation into the language of the Requested State or another language acceptable to that State.

3. If the Requested State considers that the information contained in the request is not sufficient to enable the request to be dealt with, it may request additional information.

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[79] This list can be reduced or expanded in bilateral negotiations.

/...

ARTICLE 6

Execution of requests [80]

Subject to article 19, requests for assistance shall be carried out promptly, in the manner provided for by the law and practice of the Requested State. To the extent consistent with its law and practice, the Requested State shall carry out the request in the manner specified by the Requesting State.

ARTICLE 7

Return of material to the Requested State

Any property, as well as original records or documents, handed over to the Requesting State under this Treaty shall be returned to the Requested State as soon as possible unless the latter waives its right of return thereof.

ARTICLE 8

Limitation on use [81]

The Requesting State shall not, without the consent of the Requested State, use or transfer information or evidence provided by the Requested State for investigations or proceedings other than those stated in the request. However, in cases where the charge is altered, the material provided may be used in so far as the offence, as charged, is an offence in respect of which mutual assistance could be provided under this Treaty.

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[80] More detailed provisions may be included concerning the provision of information on the time and place of execution of the request and requiring the Requested State to inform promptly the Requesting State in cases where significant delay is likely to occur or where a decision is made not to comply with the request and the reasons for refusal.

[81] Some countries may wish to omit this article or modify it, e.g. restrict it to fiscal offences.

/...

best copy available

ARTICLE 9

Protection of confidentiality [82]

Upon request:

(a) The Requested State shall use its best endeavours to keep confidential the request for assistance, its contents and its supporting documents as well as the fact of granting of such assistance. If the request cannot be executed without breaching confidentiality, the Requested State shall so inform the Requesting State, which shall then determine whether the request should nevertheless be executed;

(b) The Requesting State shall keep confidential evidence and information provided by the Requested State, except to the extent that the evidence and information is needed for the investigation and proceedings described in the request.

ARTICLE 10

Service of documents [83]

1. The Requested State shall effect service of documents that are transmitted to it for this purpose by the Requesting State.

2. A request to effect service of summonses shall be made to a Requested State not less than ... [84] days before the date on which the appearance of a person is required. In urgent cases, the Requested State may waive the time requirement.

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[82] Provisions relating to confidentiality will be important for many countries but may present problems to others. The nature of the provisions in individual treaties can be determined in bilateral negotiations.

[83] More detailed provisions relating to the service of documents, such as writs and judicial verdicts, can be determined bilaterally. Provisions may be desired providing for service of documents by mail or other manner, and providing for the forwarding of proof of service of the documents. For example, proof of service could be given by means of a receipt dated and signed by the person served or by means of a declaration made by the Requested State that service has been effected and stating the form and date of such service. One or other of these Documents could be sent promptly to the Requesting State. The Requested State could, if the Requesting State so requests, state whether service has been effected in accordance with the law of the Requested State. If service could not be effected, the reasons could be communicated promptly by the Requested State to the Requesting State.

[84] Depending on travel distance and related arrangements.

/...

ARTICLE 11

Obtaining of evidence 85/

1. The Requested State shall, in conformity with its law and upon request, take the sworn or affirmed testimony, or otherwise obtain statements of persons or require them to produce items of evidence for transmission to the Requesting State.

2. Upon request of the Requesting State, the parties to the relevant proceedings in the Requesting State, their legal representatives and representatives of the Requesting State may, subject to the laws and procedures of the Requested State, be present at the proceedings.

ARTICLE 12

Right or obligation to decline to give evidence

1. A person who is required to give evidence in the Requested or Requesting State may decline to give evidence where either:

(a) The law of the Requested State permits or requires that person to decline to give evidence in similar circumstances in proceedings originating in the Requested State; or

(b) The law of the Requesting State permits or requires that person to decline to give evidence in similar circumstances in proceedings originating in the Requesting State.

2. If a person claims that there is a right or obligation to decline to give evidence under the law of the other State, the State where that person is present shall, with respect thereto, rely on a certificate of the competent authority of the other State as evidence of the existence or non-existence of that right or obligation.

85/ This article is concerned with the obtaining of evidence in judicial proceedings, the taking of a statement of a person by a less formal process and the production of items of evidence.

/...

ARTICLE 13

Availability of persons in custody to give evidence or to assist in investigations [86]

1. Upon request of the Requesting State, and if the Requested State agrees and its law so permits, a person in custody in the latter State may, subject to his or her consent, be temporarily transferred to the Requesting State to give evidence or to assist in the investigations.

2. While the person transferred is required to be held in custody under the law of the Requested State, the Requesting State shall hold that person in custody and shall return that person in custody to the Requested State at the conclusion of the matter in relation to which transfer was sought or at such earlier time as the person's presence is no longer required.

3. Where the Requested State advises the Requesting State that the transferred person is no longer required to be held in custody, that person shall be set at liberty and be treated as a person referred to in article 14.

ARTICLE 14

Availability of other persons to give evidence or assist in investigations [87]

1. The Requesting State may request the assistance of the Requested State in inviting a person:

(a) To appear in proceedings in relation to a criminal matter in the Requesting State unless that person is the person charged; or

(b) To assist in the investigatiors in relation to a criminal matter in the Requesting State.

2. The Requested State shall invite the person to appear as a witness or expert in proceedings or to assist in the investigations. Where appropriate, the Requested State shall satisfy itself that satisfactory arrangements have been made for the person's safety.

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[86] In bilateral negotiations, provisions may also be introduced dealing with such matters as the modalities and time of restitution of evidence and the setting of a time-limit for the presence of the person in custody in the Requesting State.

[87] Provisions relating to the payment of the expenses of the person providing assistance are contained in paragraph 3 of article 14. Additional details, such as provision for the payment of costs in advance, can be the subject of bilateral negotiations.

/...

3. The request or the summons shall indicate the approximate allowances and the travel and subsistence expenses payable by the Requesting State.

4. Upon request, the Requested State may grant the person an advance, which shall be refunded by the Requesting State.

ARTICLE 15

Safe conduct 88/

1. Subject to paragraph 32 of this article, where a person is in the Requesting State pursuant to a request made under articles 13 or 14:

(a) That person shall not be detained, prosecuted, punished or subjected to any other restrictions of personal liberty in the Requesting State in respect of any acts or omissions or convictions that preceded the person's departure from the Requested State;

(b) That person shall not, without that person's consent, be required to give evidence in any proceeding or to assist in any investigation other than the proceeding or investigation to which the request relates.

2. Paragraph 1 of this article shall cease to apply if that person, being free to leave, has not left the Requesting State within a period of [15] consecutive days, or any longer period otherwise agreed on by the Parties, after that person has been officially told or notified that his or her presence is no longer required or, having left, has voluntarily returned.

3. A person who does not consent to a request pursuant to article 13 or accept an invitation pursuant to article 14 shall not, by reason thereof, be liable to any penalty or be subjected to any coercive measure, notwithstanding any contrary statement in the request or summons.

88/ These provisions may be required as the only way of securing important evidence in proceedings involving serious national and transnational crime. However, as they may raise difficulties for some countries, the precise content of the article, including any additions or modifications, can be determined in bilateral negotiations.

/...

ARTICLE 16

Provision of publicly available documents and other records 89/

1. The Requested State shall provide copies of documents and records in so far as they are open to public access as part of a public register or otherwise, or in so far as they are available for purchase or inspection by the public.

2. The Requested State may provide copies of any other document or record under the same conditions as such document or record may be provided to its own law enforcement and judicial authorities.

ARTICLE 17

Search and seizure 90/

The Requested State shall, in so far as its law permits, carry out requests for search and seizure and delivery of any material to the Requesting State for evidentiary purposes, provided that the rights of *bona fide* third parties are protected.

ARTICLE 18

Certification and authentication 91/

A request for assistance and the supporting documents thereto, as well as documents or other material supplied in response to such a request, shall not require certification or authentication.

89/ The question may arise whether this should be discretionary. This provision can be the subject of bilateral negotiations.

90/ Bilateral arrangements may cover the provision of information on the results of search and seizure and the observance of conditions imposed in relation to the delivery of seized property.

91/ The laws of some countries require authentication before documents transmitted from other countries can be admitted in their courts, and, therefore, would require a clause setting out the authentication required.

/...

ARTICLE 19

Costs [92]

The ordinary costs of executing a request shall be borne by the Requested State, unless otherwise determined by the Parties. If expenses of a substantial or extraordinary nature are or will be required to execute the request, the Parties shall consult in advance to determine the terms and conditions under which the request shall be executed as well as the manner in which the costs shall be borne.

ARTICLE 20

Consultation

The Parties shall consult promptly, at the request of either, concerning the interpretation, the application or the carrying out of this Treaty either generally or in relation to a particular case.

ARTICLE 21

Final provisions

1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of (ratification, acceptance or approval) are exchanged.

3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which it is received by the other Party.

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[92] More detailed provisions may be included, for example, the Requested State would meet the ordinary cost of fulfilling the request for assistance except that the Requesting State would bear (a) the exceptional or extraordinary expenses required to fulfil the request, where required by the Requested State and subject to previous consultations; (b) the expenses associated with conveying any person to or from the territory of the Requested State, and any fees, allowances or expenses payable to that person while in the Requesting State pursuant to a request under articles 11, 13 or 14, paragraphs 3 and 4; and (c) the expenses associated with conveying custodial or escorting officers; (d) the expenses involved in reports of experts.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

____________________________ ____________________________

Done at ________________ on ________________ in the ________________
and ________________ languages (both) texts being equally authentic.
(all)

OPTIONAL PROTOCOL TO THE MODEL TREATY ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS CONCERNING THE PROCEEDS OF CRIME [93]

1. In this Protocol "proceeds of crime" means any property suspected, or found by a court, to be property directly or indirectly derived or realized as a result of the commission of an offence or to represent the value of property and other benefits derived from the commission of an offence.

2. The Requested State shall, upon request, endeavour to ascertain whether any proceeds of the crime alleged are located within its jurisdiction and shall notify the Requesting State of the results of its inquiries. In making the request, the Requesting State shall notify the Requested State of the basis of its belief that such proceeds may be located within its jurisdiction.

3. In pursuance of a request made under paragraph 2 of this Protocol, the Requested State shall endeavour to trace assets, investigate financial dealings, and obtain other information or evidence that may help to secure the recovery of proceeds of crime.

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[93] This Optional Protocol is included on the ground that questions of forfeiture are conceptually different from, although closely related to, matters generally accepted as falling within the description of mutual assistance. However, States may wish to include these provisions in the text because of their importance in dealing with organized crime. Moreover, assistance in forfeiting the proceeds of crime has now emerged as a new instrument in international co-operation. Provisions similar to those outlined in the Optional Protocol appear in many bilateral assistance treaties. Further details can be provided in bilateral arrangements. One matter that could be considered is the need for other provisions dealing with issues related to bank secrecy. An addition could, for example, be made to paragraph 4 providing that the Requested State shall, upon request, take such measures as are permitted by its law to require compliance with monitoring orders by financial institutions. Provision could be made for the sharing of the proceeds of crime between the Contracting States or for consideration of the disposal of the proceeds on a case-by-case basis.

/...

4. Where, pursuant to paragraph 2 of this Protocol, suspected proceeds of crime are found, the Requested State shall upon request take such measures as are permitted by its law to prevent any dealing in, transfer or disposal of, those suspected proceeds of crime, pending a final determination in respect of those proceeds by a court of the Requesting State.

5. The Requested State shall, to the extent permitted by its law, give effect to or permit enforcement of a final order forfeiting or confiscating the proceeds of crime made by a court of the Requesting State or take other appropriate action to secure the proceeds following a request by the Requesting State. [94]

6. The Parties shall ensure that the rights of *bona fide* third parties shall be respected in the application of this Protocol.

In witness whereof, the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

______________________________ ______________________________

Done at ______________ on ______________ in the ________________
and ______________ languages (both) texts being equally authentic.
(all)

DRAFT RESOLUTION XII

Model Treaty on the Transfer of Proceedings in Criminal Matters

The General Assembly,

Recalling the Milan Plan of Action, [95] adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985,

Recalling also the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic

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[94] The Parties might consider widening the scope of the Optional Protocol by the inclusion of references to victims' restitution and the recovery of fines imposed as a sentence in a criminal prosecution.

[95] *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

Order, 96/ which, in principle 37, stipulate that the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation,

Recalling further resolution 12 of the Seventh Congress 97/ on the transfer of proceedings in criminal matters, in which the Committee on Crime Prevention and Control was requested to study this subject and to consider the possibility of formulating a model agreement in this area,

Acknowledging the valuable contributions made by Governments, non-governmental organizations and individual experts to the drafting of the model treaty on the transfer of proceedings in criminal matters, in particular the International Expert Meeting on the United Nations and Law Enforcement, held under the auspices of the United Nations at Baden, Austria from 16 to 19 November 1987, the interregional preparatory meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on United Nations norms and guidelines in crime prevention and criminal justice and implementation and priorities for further standard setting 98/ and the regional preparatory meetings for the Eighth Congress,

Convinced that the establishment of bilateral and multilateral arrangements for the transfer of proceedings in criminal matters will greatly contribute to the development of more effective international co-operation aimed at controlling crime,

Conscious of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in the Universal Declaration of Human Rights 99/ and the International Covenant on Civil and Political Rights, 100/

Recognizing the importance of the model treaty as an effective way of dealing with the complex aspects, consequences and modern evolution of transnational crime,

1. *Adopts* the Model Treaty on the Transfer of Proceedings in Criminal Matters, contained in the annex to the present resolution, as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral or multilateral treaties aimed at improving co-operation in matters of crime prevention and criminal justice;

96/ *Ibid*., sect. B.

97/ *Ibid*., sect. E.

98/ A/CONF.144/IPM.5.

99/ General Assembly resolution 217 A (III).

100/ General Assembly resolution 2200 A (XXI), annex.

/...

2. Invites Member States, if they have not yet established treaty relations with other States in regard to transfer of proceedings in criminal matters, or if they wish to revise existing treaty relations, to take the Model Treaty into account whenever doing so;

3. Urges Member States to strengthen international co-operation in criminal justice;

4. Also urges Member States to inform the Secretary-General periodically of efforts undertaken to establish arrangements for the transfer of proceedings in criminal matters;

5. Requests the Committee on Crime Prevention and Control to conduct periodic reviews of the progress attained in this field;

6. Requests the Secretary-General to assist Member States, at their request, in the development of treaties on the transfer of proceedings in criminal matters and to report regularly thereon to the Committee.

ANNEX

Model Treaty on the Transfer of Proceedings in Criminal Matters

PREAMBLE

The ____________________________ and the ____________________________

Desirous of further strengthening international co-operation and mutual assistance in criminal justice, on the basis of the principles of respect for national sovereignty and jurisdiction and of non-interference in the internal affairs of States,

Believing that such co-operation should further the ends of justice, the social resettlement of offenders and the interests of the victims of crime,

Bearing in mind that the transfer of proceedings in criminal matters contributes to effective administration of justice and to reducing conflicts of competence,

Aware that the transfer of proceedings in criminal matters can help to avoid pre-trial detention and thus reduce the prison population,

Convinced, therefore, that the transfer of proceedings in criminal matters should be promoted,

Have agreed as follows:

/...

ARTICLE 1

Scope of application

1. When a person is suspected of having committed an offence under the law of a State which is a Contracting Party, that State may, if the interests of the proper administration of justice so require, request another State which is a Contracting Party to take proceedings in respect of this offence.

2. For the purpose of applying this Treaty, the Contracting Parties shall take the necessary legislative measures to ensure that a request of the Requesting State to take proceedings shall allow the Requested State to exercise the necessary jurisdiction.

ARTICLE 2

Channels of communications

A request to take proceedings shall be made in writing. The request, supporting documents and subsequent communication shall be transmitted through diplomatic channels, directly between the Ministries of Justice or any other authorities designated by the Parties.

ARTICLE 3

Required documents

1. The request to take proceedings shall contain or be accompanied by the following information:

(a) The authority presenting the request;

(b) A description of the act for which transfer of proceedings is being requested, including the specific time and place of the offence;

(c) A statement on the results of investigations which substantiate the suspicion of an offence;

(d) The legal provisions of the Requesting State on the basis of which the act is considered to be an offence;

(e) A reasonably exact statement on the identity, nationality and residence of the suspected person.

2. The documents submitted in support of a request to take proceedings shall be accompanied by a translation into the language of the Requested State or into another language acceptable to that State.

ARTICLE 4

Certification and authentication

Subject to national law and unless the Parties decide otherwise, a request to take proceedings and the supporting documents thereto, as well as the documents and other material supplied in response to such a request, shall not require certification or authentication. 101/

ARTICLE 5

Decision on the request

The competent authorities of the Requested State shall examine what action to take on the request to take proceedings in order to comply, as fully as possible, with the request under their own law, and shall promptly communicate their decision to the Requesting State.

ARTICLE 6

Dual criminality

A request to take proceedings can be complied with only if the act on which the request is based would be an offence if committed in the territory of the Requested State.

ARTICLE 7

Grounds for refusal 102/

If the Requested State refuses acceptance of a request for transfer of proceedings, it shall communicate the reasons for refusal to the Requesting State. Acceptance may be refused if:

101/ The laws of some countries require authentication before documents transmitted from other countries can be admitted in their courts and, therefore, would require a clause setting out the authentication required.

102/ When negotiating on the basis of this Model Treaty, States may wish to add other grounds for refusal or conditions to the list in this section, relating, for example, to the nature or gravity of the offence, to the protection of fundamental human rights, or to considerations of public order.

(a) The suspected person is not a national of or ordinary resident in the Requested State;

(b) The act is an offence under military law, which is not also an offence under ordinary criminal law;

(c) The offence is in connection with taxes, duties, customs or exchange;

(d) The offence is regarded by the Requested State as being of a political nature.

ARTICLE 8

The position of the suspected person

1. The suspected person may express to either State his or her interest in the transfer of the proceedings. Similarly, such interest may be expressed by the legal representative or close relatives of the suspected person.

2. Before a request for transfer of proceedings is made, the Requesting State shall, if practicable, allow the suspected person to present his or her views on the alleged offence and the intended transfer, unless that person has absconded or otherwise obstructed the course of justice.

ARTICLE 9

The rights of the victim

The Requesting and Requested States shall ensure in the transfer of proceedings that the rights of the victim of the offence, in particular his or her right to restitution or compensation, shall not be affected as a result of the transfer. If a settlement of the claim of the victim has not been reached before the transfer, the Requested State shall permit the representation of the claim in the transferred proceedings, if its law provides for such a possibility. In the event of the death of the victim, these provisions shall apply to his or her dependants accordingly.

ARTICLE 10

Effects of the transfer of proceedings on the Requesting State (*ne bis in idem*)

Upon acceptance by the Requested State of the request to take proceedings against the suspected person, the Requesting State shall provisionally discontinue prosecution, except necessary investigation, including judicial assistance to the Requested State, until the Requested State informs the Requesting State that the case has been finally disposed of. From that date on, the Requesting State shall definitely refrain from further prosecution of the same offence.

ARTICLE 11

Effects of the transfer of proceedings on the Requested State

1. The proceedings transferred upon agreement shall be governed by the law of the Requested State. When charging the suspected person under its law, the Requested State shall make the necessary adjustment with respect to particular elements in the legal description of the offence. Where the competence of the Requested State is based on the provision set forth in paragraph 2 of article 1, the sanction pronounced in that State shall not be more severe than that provided by the law of the Requesting State.

2. As far as compatible with the law of the Requested State, any act with a view to proceedings or procedural requirements performed in the Requesting State in accordance with its law shall have the same validity in the Requested State as if the act had been performed in or by the authorities of that State.

3. The Requested State shall inform the Requesting State of the decision taken as a result of the proceedings. To this end a copy of any final decision shall be transmitted to the Requesting State upon request.

ARTICLE 12

Provisional measures

When the Requesting State announces its intention to transmit a request for transfer of proceedings, the Requested State may, upon a specific request made for this purpose by the Requesting State, apply all such provisional measures, including provisional detention and seizure, as could be applied under its own law if the offence in respect of which transfer of proceedings is requested had been committed in its territory.

ARTICLE 13

The plurality of criminal proceedings

When criminal proceedings are pending in two or more States against the same suspected person in respect of the same offence, the States concerned shall conduct consultations to decide which of them alone should continue the proceedings. An agreement reached thereupon shall have the consequences of a request for transfer of proceedings.

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ARTICLE 14

Costs

Any costs incurred by a Contracting Party because of a transfer of proceedings shall not be refunded, unless otherwise agreed by both the Requesting and Requested States.

ARTICLE 15

Final provisions

1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of ratification are exchanged.

3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which it is received by the other Party.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

_________________________________ _________________________________

Done at _____________ on ______________ in the ______________________
and ____________ ___ languages (both) texts being equally authentic.
(all)

DRAFT RESOLUTION XIII

Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released

The General Assembly,

Bearing in mind the Milan Plan of Action, [103] adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed by the General Assembly in its resolution 40/32 of 29 November 1985,

Bearing in mind also the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, [104] which, in principle 37, stipulate that the United Nations should prepare model instruments suitable for use as international and regional conventions and as guides for national implementing legislation,

Recalling resolution 13 of the Seventh Congress, [105] on the transfer of supervision of foreign offenders who have been conditionally sentenced or conditionally released, in which the Committee on Crime Prevention and Control was requested to study this subject and to consider the possibility of formulating a model treaty in this area,

Acknowledging the valuable contributions made by Governments, non-governmental organizations and individual experts to the drafting of the model treaty on the transfer of supervision of offenders conditionally sentenced or conditionally released, in particular the International Expert Meeting on the United Nations and Law Enforcement, held under the auspices of the United Nations at Baden, Austria, from 16 to 19 November 1987, the interregional preparatory meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on United Nations norms and guidelines in crime prevention and criminal justice and implementation and priorities for further standard setting [106] and the regional preparatory meetings for the Eighth Congress,

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[103] *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

[104] *Ibid.*, sect. B.

[105] *Ibid.*, sect. E.

[106] A/CONF.144/IPM.5.

Convinced that the establishment of bilateral and multilateral arrangements for transfer of supervision of offenders conditionally sentenced or conditionally released will greatly contribute to the development of more effective international co-operation in penal matters,

Conscious of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in the Universal Declaration of Human Rights 107/ and the International Covenant on Civil and Political Rights, 108/

1. *Adopts* the Model Treaty on Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released, contained in the annex to the present resolution, as a useful framework that could be of assistance to States interested in negotiating and concluding bilateral or multilateral treaties aimed at improving co-operation in matters of crime prevention and criminal justice;

2. *Invites* Member States, if they have not yet established treaty relations with other States in the area of extradition, or if they wish to revise existing treaty relations, to take into account the Model Treaty whenever doing so;

3. *Urges* all Member States to strengthen international co-operation in criminal justice;

4. *Also urges* Member States to inform the Secretary-General periodically of efforts undertaken to establish arrangements on the transfer of supervision of offenders conditionally sentenced or conditionally released;

5. *Requests* the Committee on Crime Prevention and Control to conduct periodic reviews of the progress attained in this field;

6. *Requests* the Secretary-General to assist Member States, at their request, in the development of treaties on the transfer of supervision of offenders conditionally sentenced or conditionally released and to report regularly thereon to the Committee.

107/ General Assembly resolution 217 A (III).

108/ General Assembly resolution 2200 A (XXI), annex.

ANNEX

Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released

The ____________________________ and the ____________________________

Desirous of further strengthening international co-operation and mutual assistance in criminal justice, on the basis of the principles of respect for national sovereignty and jurisdiction and of non-interference in the internal affairs of States,

Believing that such co-operation should further the ends of justice, the social resettlement of sentenced persons and the interest of the victims of crime,

Bearing in mind that the transfer of supervision of offenders conditionally sentenced or conditionally released can contribute to an increase in the use of alternatives to imprisonment,

Aware that supervision in the home country of the offender rather than enforcement of the sentence in a country where the offender has no roots also contributes to an earlier and more effective reintegration into society,

Convinced, therefore, that the social rehabilitation of offenders and the increased application of alternatives to imprisonment would be promoted by facilitating the supervision of conditionally sentenced or conditionally released offenders in their State of ordinary residence,

Have agreed as follows:

ARTICLE 1

Scope of application

1. This Treaty shall be applicable, if, according to a final court decision, a person has been found guilty of an offence and has been:

(a) Placed on probation without sentence having been pronounced;

(b) Given a suspended sentence involving deprivation of liberty;

(c) Given a sentence, the enforcement of which has been modified (parole) or conditionally suspended, in whole or in part, either at the time of the sentence or subsequently.

2. The State where the decision was taken (sentencing State) may request another State (administering State) to take responsibility for applying the terms of the decision (transfer of supervision).

/...

ARTICLE 2

Channels of communications

A request for the transfer of supervision shall be made in writing. The request, supporting documents and subsequent communication shall be transmitted through diplomatic channels, directly between the Ministries of Justice or any other authorities designated by the Parties.

ARTICLE 3

Required documents

1. A request for the transfer of supervision shall contain all necessary information on the identity, nationality and residence of the sentenced person. The request shall be accompanied by the original or a copy of any court decision referred to in the preceding provision and a certificate that this decision is final.

2. The documents submitted in support of a request for transfer of supervision shall be accompanied by a translation into the language of the requested State or into another language acceptable to that State.

ARTICLE 4

Certification and authentication

Subject to national law and unless the Parties decide otherwise, a request for transfer of supervision and the supporting documents thereto, as well as the documents and other material supplied in response to such a request, shall not require certification or authentication. 109/

ARTICLE 5

Decision on the request

The competent authorities of the administering State shall examine what action to take on the request for supervision in order to comply, as fully as possible, with the request under their own law, and shall promptly communicate their decision to the sentencing State.

109/ The laws of some countries require authentication before documents transmitted from other countries can be admitted in their courts and, therefore, would require a clause setting out the authentication required.

ARTICLE 6

Dual criminality 110/

A request for transfer of supervision can be complied with only if the act on which the request is based would constitute an offence if committed in the territory of the administering State.

ARTICLE 7

Grounds for refusal 111/

If the administering State refuses acceptance of a request for transfer of supervision, it shall communicate the reasons for refusal to the sentencing State. Acceptance may be refused where:

(a) The sentenced person is not an ordinary resident in the administering State;

(b) The act is an offence under military law, which is not also an offence under ordinary criminal law;

(c) The offence is in connection with taxes, duties, customs or exchange;

(d) The offence is regarded by the administering State as being of a political nature;

(e) The administering State, under its own law, can no longer carry out the supervision or enforce the sanction in the event of revocation because of lapse of time.

ARTICLE 8

The position of the sentenced person

Whether sentenced or standing trial, a person may express to the sentencing State his or her interest in a transfer of supervision and his or her willingness to fulfil any conditions to be imposed. Similarly, such interest may be expressed by his or her legal representative or close

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110/ When negotiating on the basis of this Model Treaty, States may wish to waive the requirement of dual criminality.

111/ When negotiating on the basis of this Model Treaty, States may wish to add other grounds for refusal or conditions to the list, relating in this section, for example, to the nature or gravity of the offence, to the protection of fundamental human rights, or to considerations of public order.

/...

relatives. Where appropriate, the Contracting States shall inform the offender or his or her close relatives of the possibilities under this Treaty.

ARTICLE 9

The rights of the victim

The sentencing State and the administering State shall ensure in the transfer of supervision that the rights of the victims of the offence, in particular his or her rights to restitution or compensation, shall not be affected as a result of the transfer. In the event of the death of the victim, this provision shall apply to his or her dependants accordingly.

ARTICLE 10

The effects of the transfer of supervision on the sentencing State

The acceptance by the administering State of the responsibility for applying the terms of the decision rendered in the sentencing State shall extinguish the competence of the latter State to enforce the sentence.

ARTICLE 11

The effects of the transfer of supervision on the administering State

1. The supervision transferred upon agreement and the subsequent procedure shall be carried out in accordance with the law of the administering State. That State alone shall have the right of revocation. That State may, to the extent necessary, adapt to its own law the conditions or measures prescribed, provided that such conditions or measures are, in terms of their nature or duration, not more severe than those pronounced in the sentencing State.

2. If the administering State revokes the conditional sentence or conditional release, it shall enforce the sentence in accordance with its own law without, however, going beyond the limits imposed by the sentencing State.

ARTICLE 12

Review, pardon and amnesty

1. The sentencing State alone shall have the right to decide on any application to reopen the case.

/...

2. Each Party may grant pardon, amnesty or commutation of the sentence in accordance with the provisions of its Constitution or other laws.

ARTICLE 13

Information

1. The Contracting Parties shall keep each other informed, in so far as it is necessary, of all circumstances likely to affect measures of supervision or enforcement in the administering State. To this end they shall transmit to each other copies of any relevant decisions in this respect.

2. After expiration of the period of supervision, the administering State shall provide to the sentencing State, at its request, a final report concerning the supervised person's conduct and compliance with the measures imposed.

ARTICLE 14

Costs

Supervision and enforcement costs incurred in the administering State shall not be refunded, unless otherwise agreed by both the sentencing State and the administering State.

ARTICLE 15

Final provisions

1. This Treaty is subject to (ratification, acceptance or approval). The instruments of (ratification, acceptance or approval) shall be exchanged as soon as possible.

2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of ratification are exchanged.

3. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.

4. Either Contracting Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which it is received by the other Party.

/...

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

________________________________   ________________________________

Done at _____________ on ______________ in the ______________________
and ________________ languages (both) texts being equally authentic.
(all)

/...

DRAFT RESOLUTION XIV

Crime prevention and criminal justice: expression of appreciation to the Government and people of Cuba on the occasion of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

The General Assembly,

Taking into account the significance and the results of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Havana from 27 August to 7 September 1990,

Expresses its deep appreciation to the Government and people of Cuba for acting as host to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

DRAFT RESOLUTION XV

Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

The General Assembly,

Deeply concerned about the steady rise in crime in many parts of the world, particularly in its dangerous new forms and transnational dimensions,

Conscious of the negative effects of crime on the quest for sustained development, a secure environment and a better quality of life,

Recognizing the importance to all countries of more effective crime prevention and criminal justice in furthering socio-economic development, political stability and a propitious climate for national growth and world peace,

Recalling its resolution 40/32 of 29 November 1985, in which it approved the Milan Plan of Action [112] as a useful and effective means of strengthening international co-operation in the field of crime prevention and criminal justice and invited Governments to be guided by it in the formulation of appropriate legislation and policy directives and to make continuous efforts to implement the principles contained in the Caracas Declaration [113] and other relevant resolutions and recommendations, in accordance with the economic, social, cultural and political circumstances of each country,

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[112] See *Seventh United Nations Conference on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

[113] Resolution 35/171, annex.

/...

Also recalling its resolution 44/72 of 8 December 1989, in which it stressed the importance of the United Nations crime prevention and criminal justice programme and the necessity of strengthening it in order to make it more responsive to the needs and expectations of Member States, whose stability and social peace, as well as law enforcement and judicial structures, might be undermined by the growing level and impact of criminality, and requested the Secretary-General to ensure that the level of human and financial resources of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs of the Secretariat is sufficient to carry out its multiple tasks mandated by the United Nations policy-making bodies, including the promotion of collaborative action by Governments on problems of mutual concern, evaluation research, the collection and dissemination of information, the preparation of reports and studies and technical co-operation activities, and to ensure that the specialized nature of the programme is fully reflected in its management and staffing,

Recalling further its resolution 42/59 of 30 November 1987, in which it invited the Committee on Crime Prevention and Control to accord priority to preparations for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and to ensure adequate follow-up to the review of the functioning and programme of work of the United Nations in the field of crime prevention and criminal justice undertaken by the Economic and Social Council and its resolution 43/99 of 8 December 1988, in which it stressed the necessity for Member States to continue to make concerted and systematic efforts to strengthen international co-operation in crime prevention and criminal justice,

Emphasizing the responsibility assumed by the United Nations in crime prevention under General Assembly resolution 415 (V) of 1 December 1950, which was affirmed in Economic and Social Council resolutions 731 F (XXVIII) of 30 July 1959 and 830 D (XXXII) of 2 August 1961, and in the promotion and strengthening of international co-operation in the field in accordance with Assembly resolutions 3021 (XXVII) of 18 December 1972, 32/59 and 32/60 of 8 December 1977, 35/171 of 15 December 1980, 36/21 of 9 November 1981 and 40/32,

Recalling Economic and Social Council resolutions 1986/10 and 1986/11 of 21 May 1986, 1987/49 and 1987/53 of 28 May 1987, 1988/44 of 27 May 1988 and 1989/68 and 1989/69 of 24 May 1989,

Also recalling, in particular, Economic and Social Council resolution 1990/27 of 24 May 1990, in which the Council invited the General Assembly, at its forty-fifth session, to take appropriate measures to ensure the timely implementation and proper follow-up of the recommendations of the Eighth Congress,

Acknowledging that the United Nations congresses, as major intergovernmental forums, have influenced national policies and practices by facilitating the exchange of views and experiences, mobilizing public opinion and recommending policy options at the national, regional and international levels, thus making a significant contribution to progress and the promotion of international co-operation in this field, _Mindful_ of the main objectives of the United Nations in the field of crime prevention and criminal justice, which include the promotion of a more effective administration of justice, the strengthening of international co-operation in the fight against international crime, the observance of human rights and the pursuance of the highest standards of fairness, efficiency, humanity and professional conduct,

Reaffirming the validity of the guidelines for setting international standards in the field of human rights declared in resolution 41/120 of 4 December 1986 and its emphasis on paying due consideration in this work to the established international legal framework,

Emphasizing the importance of continuing to provide Governments with the maximum opportunity to submit written comments and to participate in the formulation of international instruments and model treaties,

Bearing in mind the theme of the Eighth Congress, "International co-operation in crime prevention and criminal justice for the twenty-first century", and the importance of preserving peace, freedom and justice as essential conditions for development and international co-operation,

Noting the fact that the Eighth Congress, in pursuance of this theme, paid particular attention to the question of crime prevention and criminal justice in the context of development and the realities and perspectives on international co-operation in this field; underlined the need for granting this question higher priority at the United Nations system level; recommended major instruments to facilitate inter-State co-operation against crime, giving particular attention to the linkages between illicit drug trafficking, organized crime and terrorist criminal activities, the efficiency and effectiveness of national systems of criminal justice, the computerization of criminal justice and the non-institutional treatment of offenders, domestic violence and the prevention of juvenile delinquency; and identified other priority areas for practical action, such as environmental protection, in accordance with the requests of the General Assembly, [114]

Noting also that the programme of work of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs of the Secretariat has increased in recent years,

Aware that the prevention of crime and criminal justice must be considered not only in the context of public systems, social and cultural values and social evolution, but also in the context of consistent economic development, and alarmed by the growing threat of organized crime, whose destabilizing and corrupting influence on basic economic and political institutions poses a challenge that demands more effective international co-operation,

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[114] A/CONF.144/28.

Considering that the formulation and implementation of rules and guidelines in the field of crime prevention and criminal justice provide a basis for the introduction of improvements in criminal justice at the national and regional levels,

Reaffirming its determination to improve regional and international co-operation to foster further progress in this area, including implementation of the recommendations of the Eighth Congress, according to an orderly timetable reflecting priorities, taking into account the results of the expert group meeting and ministerial meeting to be held in 1991,

Having considered the report of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the report of the Secretary-General on the implementation of the resolutions and recommendations of the Seventh Congress 115/ and the report of the Secretary-General 116/ on the implementation of the conclusions of the Eighth Congress, submitted in pursuance of resolution 44/72,

1. *Expresses its satisfaction* with the successful results achieved by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and its thorough preparation, overviewed by the Committee on Crime Prevention and Control as the preparatory body for the Congress, which contributed to its productive outcome, and by the regional and interregional preparatory meetings convened in co-operation with the regional commissions, interregional and regional crime prevention institutes and interested Governments;

2. *Takes note* of the report of the Eighth Congress, as well as the Secretary-General's reports on the implementation of the recommendations of the Seventh Congress and of his report on the conclusions of the Eighth Congress;

3. *Welcomes* the instruments and resolutions adopted by the Eighth Congress, 117/ and invites Governments to be guided by them in the formulation of appropriate legislation and policy directives and to make efforts to implement the principles contained therein and in the relevant instruments and resolutions approved by the previous congresses and other relevant resolutions, in accordance with the economic, social, legal, cultural and political circumstances of each country;

4. *Endorses* the decision of the Congress to give priority attention to specific practical measures to combat international crime over the forthcoming five-year period, bearing in mind the criteria set out in the relevant regulations and rules governing programme planning;

115/ A/45/324.

116/ A/45/629.

117/ A/CONF.144/28, chap. I.

/...

5. Invites Member States to monitor systematically the steps being taken to ensure co-ordination of efforts in the planning and execution of effective and humane measures to reduce the social costs of crime and its negative effects on the development process, as well as to continue to explore new avenues for international co-operation in this field;

6. Invites the Committee on Crime Prevention and Control at its twelfth session to examine implications of the resolutions and recommendations of the Eighth Congress for the programmes of the United Nations system and to make specific recommendations on the implementation thereof in its report to the Economic and Social Council at its first regular session of 1992, in accordance with the priorities to be set by the ministerial meeting to be held in 1991;

7. Requests the Economic and Social Council to examine, at its first regular session of 1992, the report of the Committee on Crime Prevention and Control on the resolutions and recommendations of the Eighth Congress for further implementation in order to provide, within the United Nations system, overall policy guidance in crime prevention and criminal justice, and to undertake periodically the review, monitoring and appraisal of the above-mentioned resolutions and recommendations, and the priority accorded to them;

8. Emphasizes the urgent need to be responsive to the calls of the Eighth Congress for strengthening the operational aspects of the United Nations programme of work in crime prevention and criminal justice, with a view to assisting interested countries in developing self-reliant and adequate law enforcement and judicial structures;

9. Urges all entities of the United Nations system, including the regional commissions and the regional and interregional institutes on crime prevention and the treatment of offenders and the relevant non-governmental organizations having consultative status with the Economic and Social Council to become actively involved in the implementation of the resolutions and recommendations of the Eighth Congress;

10. Also urges the Department of Technical Co-operation for Development of the Secretariat, the United Nations Development Programme and other pertinent organizations to give full support to projects of technical assistance, in particular to developing countries, in the field of crime prevention and criminal justice and to encourage technical co-operation among developing countries;

11. Requests the Secretary-General to use his best endeavours to translate into action, as appropriate, the resolutions recommended by the Eighth Congress for adoption by the General Assembly and to provide adequate follow-up of the other resolutions unanimously adopted by the Congress, and to do so in accordance with the priorities indicated by the Congress;

12. Invites the Secretary-General to use his best endeavours to review the resources required to enable the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs of the Secretariat to discharge its responsibilities in accordance with the mandates and tasks recommended by the Eighth Congress;

/...

13. *Requests* the Secretary-General to consider including in the proposed programme budget for the biennium 1992-1993 programme and resources proposals to assist with the long-term solution of the problems posed by the implementation of existing mandates;

14. *Also requests* the Secretary-General to circulate the report of the Eighth Congress to Member States and intergovernmental and non-governmental organizations in order to ensure that it is disseminated as widely as possible and to conduct appropriate public information activities in this field;

15. *Further requests* the Secretary-General to submit to the General Assembly, at its forty-sixth session, a report on the measures taken to implement the present resolution;

16. *Decides* to include in the provisional agenda of its forty-sixth session the item entitled "Crime prevention and criminal justice".

DRAFT RESOLUTION XVI

Criminal justice education

The General Assembly,

Aware that one of the main objectives of the United Nations in the field of crime prevention and criminal justice is the continued promotion of a more effective administration of justice, the strengthening of international co-operation in the fight against transnational crime, the observance of human rights and the pursuance of the highest standards of fairness, efficiency, humanity and professional conduct,

Recalling in this context its resolution 44/72 of 8 December 1989 in which it expressed its hope that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders would make a major contribution to the solution of problems related to crime prevention and criminal justice,

Noting the views expressed at previous congresses concerning the need for collaboration between criminal justice agencies and educational authorities in the development of crime prevention programmes,

Recognizing that existing approaches to crime prevention and control have not always proved effective,

Calling attention also to its resolution 44/127 of 15 December 1989, designating the year 1990 as International Literacy Year, the aim of which is to eradicate illiteracy in the world,

Bearing in mind its resolution 44/61 of 8 December 1989 on the development of public information activities in the field of human rights,

/...

Convinced that development of public information activities in the field of criminal justice should include the creation and implementation of mechanisms enabling Member States, intergovernmental and non-governmental organizations and other professional criminal justice associations to be familiar with ongoing criminal justice and crime prevention activities in the work of the United Nations,

Mindful that the Eighth United Nations Congress in its resolution 5 of 7 September 1990 on the consolidation of the role of national correspondents in the crime prevention and criminal justice field, resolution 14 of 6 September 1990 on social aspects of crime prevention and criminal justice in the context of development, resolution 19 of 7 September 1990 on management of criminal justice and development of sentencing policies, draft resolution 3 of 7 September 1990 on the computerization of criminal justice and, finally, resolution 4 of 4 September 1990 [118] on international co-operation and mutual assistance through training programmes and exchange of expertise, made several recommendations for strengthening education activities in the criminal justice field, including better dissemination of information on those activities among interested Member States and other parties,

Mindful also that education has a potential role to play in ameliorating the conditions that give rise to crime and to the consequences of criminality,

Determined that education should play an important role in crime prevention and criminal justice through such means as education for the general awareness of the public, education of the young for crime prevention, education aimed at the total personal development of prisoners and other offenders and continuing education of the criminal justice personnel,

Aware that comprehensive approaches are required for a lasting and systemic impact on criminal justice education with a view to attaining higher standards of fairness, efficiency and professional conduct of criminal justice personnel,

1. _Endorses_ the initiatives made by the Eighth United Nations Congress in the above-mentioned resolutions, which aim at strengthening national and international efforts in criminal justice education, including the increased role of criminal justice education in the activities of Member States, intergovernmental and non-governmental organizations and national correspondents in the field of crime prevention and control;

2. _Invites_ Member States to review existing education practices in respect of both offenders and personnel in crime prevention and criminal justice;

3. _Also invites_ Member States to involve educational experts, as appropriate, in crime prevention and criminal justice and to encourage related educational research and publications;

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4. Further invites Member States to advise criminal justice staff periodically through their professional associations, journals or other publications and records, on United Nations developments relevant to their area of work;

5. Invites all Member States to include in their educational curricula materials relevant to a comprehensive understanding of criminal justice and crime prevention issues, and encourages all those responsible for criminal law and criminal justice reforms, for training in law and its enforcement, the armed forces, medicine, diplomacy and other relevant fields to include appropriate criminal justice and crime prevention components in their programmes;

6. Also invites Member States to encourage collaboration between criminal justice agencies and educational authorities in the development of crime prevention programmes and to encourage educational authorities to give increased attention to ethical and socialization programmes in their curricula and to other relevant measures referred to in the inventory of comprehensive crime prevention measures submitted to the Eighth Congress; 119/

7. Requests the Secretary-General to explore the possibility of increased use of education in crime prevention and criminal justice with a view to preparing a study on the relationship among crime, education and development and of presenting the first results in a progress report to be submitted to the Committee on Crime Prevention and Control at its twelfth session;

8. Also requests the Secretary-General, through the Department of Public Information of the Secretariat in co-operation with other offices and national correspondents in the field of crime prevention and control, to continue to develop and maintain a list of criminal justice journals and relevant public media programmes, with a view to the dissemination of United Nations information in the field of criminal justice and crime prevention for educational purposes;

9. Further requests the Secretary-General to bring to the attention of relevant national criminal justice and educational authorities the United Nations standards, norms and other selected recommendations with a view to ensuring their more widespread and systematic dissemination in relevant training and educational programmes;

10. Requests the Secretary-General to develop technical co-operation programmes, including interregional advisory services, with a view to enhancing the role of education in the operation of crime prevention and criminal justice, taking into account the interdisciplinary nature of such co-operation programmes;

11. Recommends that the Secretary-General should establish, subject to availability of extrabudgetary funds, electronic data bases within the United Nations Criminal Justice Information Network which include information on the

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network of national correspondents in the field of crime prevention and criminal justice and information on educational and training programmes in the criminal justice field with a view to disseminating information to the international criminal justice community more effectively;

12. Invites the relevant intergovernmental and non-governmental organizations to contribute substantively, logistically and financially to the development of educational programmes within the United Nations crime prevention and criminal justice programme and to the establishing of the above-mentioned data bases;

13. Urges the United Nations regional and interregional institutes for the prevention of crime and the treatment of offenders to include educational issues in their research and training programmes;

14. Requests the Committee on Crime Prevention and Control, as the preparatory body for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to keep the matter under review;

15. Recommends that the Committee on Crime Prevention and Control and preparatory meetings to the Ninth Congress further consider the role of education with a view to facilitating educational approaches in crime prevention and criminal justice.

DRAFT RESOLUTION XVII

International co-operation in combating organized crime

The General Assembly,

Recalling the responsibility assumed by the United Nations in the field of crime prevention and criminal justice,

Concerned that organized crime has increased in many parts of the world and has become more transnational in character, leading, in particular, to the spread of such negative phenomena as violence, terrorism, corruption and illegal trade in narcotic drugs and, in general, undermining the development process, impairing the quality of life and threatening human rights and fundamental freedoms,

Recalling Economic and Social Council resolution 1989/70 of 24 May 1989 and General Assembly resolution 44/71 of 8 December 1989,

Recalling also that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Havana from 27 August to 7 September 1990, adopted resolutions entitled "Organized crime" and "Prevention and control of organized crime",

Recalling further General Assembly resolution S-17/2 of 23 February 1990,

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Convinced of the need to strengthen international co-operation in combating organized crime,

Noting with appreciation that the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders explored the possibilities and ways of strengthening further international co-operation in combating organized crime and adopted guidelines for the prevention and control of organized crime, as well as model treaties relating to it, 120/

1. _Urges_ Member States to give favourable consideration to the implementation of the guidelines for the prevention and control of organized crime at both national and international levels;

2. _Invites_ Member States to make available to the Secretary-General, on request, the provisions of their legislation relating to money laundering, the tracing, monitoring and forfeiture of the proceeds of crime and the monitoring of large-scale cash transactions and other measures so that they may be made available to Member States desiring to enact or further develop legislation in these fields;

3. _Requests_ the Committee on Crime Prevention and Control to consider ways of strengthening international co-operation in combating organized crime, taking due account of the opinions of Governments, international organizations and non-governmental organizations as well as opinions expressed at and decisions taken by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and to submit its views, through the Economic and Social Council, to the General Assembly at its forty-seventh session;

4. _Requests_ the Secretary-General to include activities related to organized crime of the United Nations crime prevention and criminal justice programme in the United Nations System-Wide Action Plan on Drug Abuse Control; 121/

5. _Calls upon_ Member States, international organizations and interested non-governmental organizations to co-operate with the United Nations in organizing the International Seminar on Organized Crime Control, to be held in Moscow in October 1991.

120/ See A/CONF.144, chap. IV.C.1.

121/ See E/1990/39.

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52. The Third Committee recommends to the General Assembly the adoption of the following draft decision:

DRAFT DECISION

Crime prevention and criminal justice

The General Assembly

(a) Requests the Secretary-General and the United Nations Development Programme to explore, as a matter of urgency, the possibilities for full funding of the United Nations African Institute for Crime Prevention and the Treatment of Offenders through voluntary contributions;

(b) Requests the Secretary-General to prepare a report to the General Assembly at its forty-sixth session on the situation of the United Nations African Institute for Crime Prevention and the Treatment of Offenders and all other autonomous institutes of the United Nations, including proposals, if appropriate, for a balance between voluntary contributions and financing through the regular budget.
